1471.

SUPREME COURT OF THE UNITED STATES.

No. 73.

REUBEN M. GARNETT ET AL., HEIRS &c. OF REUBEN GARNETT, DECEASED, APPELLANTS,

VERSUS

HENRY JENKINS ET AL.

APPEAL FROM THE CIRCUIT COURT UNITED STATES FOR THE DISTRICT OF KENTUCKY.

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UNITED STATES OF AMERICA, *Seventh Circuit Court, Kentucky District, Sct.*

Parties' names. REUBEN GARNETT'S heirs, complainants, *against* HENRY JENKINS, and others, defendants. } *In Chancery.*

Pleas before the honorable John McLean and John Boyle, judges of the seventh circuit court of the United States of America in and for the district of Kentucky, held at the Capitol in the town of Frankfort, at the May term of said court, in the year 1832.

Be it remembered, that heretofore, to wit, on the 30th day of December, in the year 1815, came Reuben Garnett, by his counsel, into the clerk's office of the court aforesaid, and filed the following bill in chancery against Christopher Greenup and others, to wit:

Bill. To the hon. the judges of the circuit court of the United States of America for the Kentucky district, in chancery, sitting: Reuben Garnett, a citizen of the State of Virginia, respectfully showeth, that, on the 10th day of May, 1780, your orator, with due certainty and precision, made an entry with the proper surveyor for 1,164⅔ acres of land on the Seventh Big fork, about thirty miles below Bryant's station, that comes in on the north side of the North Fork of Elkhorn, near the mouth of said creek, and running up on both sides thereof for quantity. That, on the 20th day of June, 1785, your orator made a survey of the said land in conformity to the said entry, and, on the 1st day of Ju , 1787, obtained a patent therefor, as will more fully appear by reference to a true copy of said entry, survey, and patent, filed herewith as a part of this bill, will more fully appear; that your orator had well hoped to obtain the peaceable possession of his said land so rightfully acquired, but a certain Charles Cavenaugh, William Lane, Christopher Greenup, Nicholas Lafon, Daniel Weisiger, Reuben Samuel, Larkin Ferguson, James Chambers, James Scruggs, John Brown, Joseph Abbott, James Brenham, Daniel Brenham, James Ferguson, John Colvert, Henry Jenkins, William St. Clair, the heirs of Alexander McConnell, dec'd, to wit, Isbell, Hannah, Elizabeth, Rebecca, Allen, and McConnell, citizens of the State of Kentucky, who are made defts. to this bill, combining, &c., to injure and defraud your orator in this behalf, have obtained the legal title to the said land under a patent or patents surreptitiously issued under color of entries vague and uncertain, incorrectly and improperly surveyed, the particulars of which, after much much inquiry, your orator has been unable to learn, with certainty; and, relying upon their title thus unfairly and illegally acquired, refuse to permit your orator to take possession or to enjoy the profits of the said land, or any part thereof, or even to make known their claims, although thereto often required. All which actings, &c. &c., in tender consideration whereof, &c., to the end, therefore, that the defts. may, on their corporal oath, true and perfect answer make to all and singular the premises aforesaid, now especially that they may severally set forth their title, your orator prays your honors, by your decree, to compel the defts. to convey to them their title, deliver the possession and account for the use of the land, with such other and further relief as their case may require, &c. &c. May it please your honors to grant, &c. &c.

JA. HAGGIN.

Entry. May 10, 1780, Reuben Garnett enters 1,164⅔ acres upon treasury warrant on the Seventh Big fork, about 30 miles below Bryant's station, that comes in on the north side of the North Fork of Elkhorn, near the mouth of said creek, and running up on both sides thereof for quantity.

A copy, RICH'D HIGGINS, *S. F. C.*

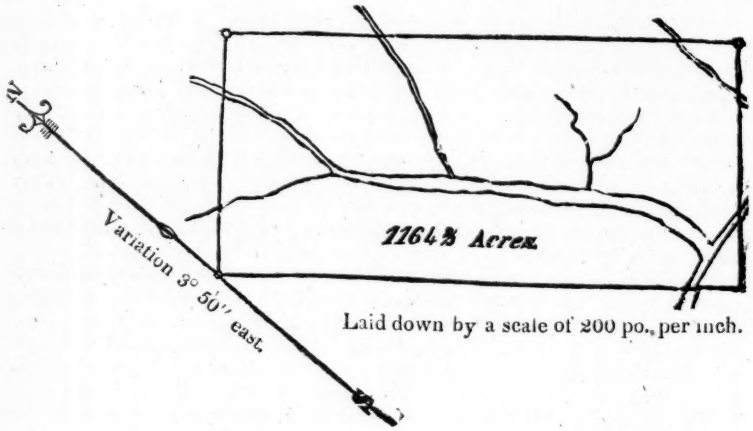
Surveyed.

Entry. May 10, 1780, Edm'd Garnett enters 428 acres upon a treasury warrant, on the Sixth Big fork of Elkhorn, twenty-nine miles below Bryant's station, near the mouth of said creek, running up on both sides of the said creek for quantity.

A copy, RICH'D HIGGINS, *S. F. C.*

Surveyed.

Survey.



Laid down by a scale of 200 po., per inch.

FAYETTE COUNTY, *sct.*, *June* 20, 1785.

Surveyed for Reuben Garnett 1,164⅔ acres of land by virtue of an entry made on a Treasury warrant, No 467, situate and lying on the Seventh Large fork of the North Folk of Elkhorn, running in on the north side thereof about 30 miles below Bryant's station, which creek is now called Lecount's run, beginning at a large cedar in a clift near the mouth of said run, on the upper side thereof; running from thence north 50°, east 300 poles, to a willow, oak, and hackberry; thence north 40, west 622 poles, to a large mulberry and sugartree; thence south 50, west 300 poles, to an elm and sugartree, thence south 40, east 622 poles, to the beginning.

SIMON MORGAN, *D. S.*

JOHN FINCH. } *C. C.*
SOLO. TURNER, }
JOSHUA GARNETT, *Marker.*

Examined.

T. MARSHALL, *S. F. C.*

A copy, teste.

EDM'D THOMAS, *Reg'r.*

Beverley Randolph, Esq. Lieutenant Governor of the Commonwealth of Virginia—to all to whom these presents shall come, greeting:

Patent. Know ye, that by virtue and in consideration of a land office Treasury warrant, number four hundred and sixty-seven, issued the fifteenth day of October, one thousand seven hundred and seventy-nine, there is granted by the said commonwealth unto Reuben Garnett, a certain tract or parcel of land containing eleven hundred and sixty-four and two-third acres, by survey bearing date the twentieth day of June, one thousand seven hundred and eighty five, lying and being in the county of Fayette, on the Seventh Large fork of the North Fork of Elkhorn, running in on the north side thereof, about thirty miles below Bryant's station, which creek is now called Lecount's run, and bounded as followeth, to wit: beginning at a large cedar in a cliff near the mouth of said run on the upper side thereof, running from thence north fifty degrees, east three hundred poles to a willow, oak, and hackberry; thence north fifty degrees, west six hundred and twenty-two poles to a large mulberry and sugartree; thence south fifty degrees, west three hundred poles, to an elm and sugartree; thence south forty degrees, east six hundred and twenty-two poles, to the beginning, with its appurtenances. To have and to hold the said tract or parcel of land with its appurtenances to the said Reuben Garnett and his heirs forever.

In witness whereof, the said Beverley Randolph, esq. lieutenant governor of the commonwealth of Virginia, hath hereunto set his hand, and caused the lesser seal of the said commonwealth to be affixed, at Richmond on the first day of June, in the year of our Lord one thousand seven hundred and eighty-seven, and of the commonwealth the eleventh.

[L. S.] BEVERLEY RANDOLPH.

Reuben Garnett is entitled to the within mentioned tract of land.

JOHN HARVIE, *Re. L. Off.*

THE UNITED STATES OF AMERICA, *to the Marshal of the Kentucky District, greeting:*

Ch'y spa. [L. S.] You are hereby commanded to summon Charles Cavenaugh, William Lane, Christopher Greenup, Nicholas Lafon, Daniel Weisiger, Reuben Samuel, Larkin Ferguson, James Chambers, James Scruggs, John Brown, Joseph Abbott, James Brenham, Daniel Brenham, James Ferguson, John Calvert, Henry Jenkins, William St. Clair, the heirs of Alexander McConnell, dec'd, to wit: Isbell, Hannah, Elizabeth, Rebecca, Allen, and McConnell, citizens of the State of Kentucky, to appear before the judges of our seventh circuit court of the United States in and for the Kentucky district, at the capitol in Frankfort, on the first Monday in May next, to answer a bill in chancery exhibited against them by Reuben Garnett, a citizen of the State of Virginia; and this they shall in no wise omit under the penalty of four hundred dollars each, and have then there this writ. In testimony whereof, John Marshall, esq., Chief Justice of the United States, hath caused the seal of our said court to be hereunto affixed, this 30th day of December, 1815, and of our independence the 40th.

Attest, JNO. H. HANNA, *C. C. C. K. D.*

January 18, 1816, executed on Nicholas Lafon, Reuben Samuel, John Brown, Christopher Greenup, and Daniel Weisiger. Feb. 8, executed on Larkin Ferguson, James Chambers, Joseph Abbott, James Brenham, Daniel Brenham, James Ferguson, John Colvert, Henry Jenkins, William St. Clair, Rebecca McConnell, Allen McConnell, Mary McConnell, and Jane McConnell; and on Isabella McConnell, 19th day of April, 1816. Hannah and Elizabeth McConnell are not inhabitants of the State of Kentucky; Wm. Lane is deceased; Charles Cavenaugh and James Scruggs not found. (A man by the name of Thomas Scruggs lives on the land in dispute.)

CHAPMAN COLEMAN, *D.*
for ROB. CROCKETT, *M. K. D.*

Greenup's answer filed. And afterwards, to wit, at rules held in the clerk's office of the court aforesaid, in the month of May, and year 1816, came the defendant, Christopher Greenup, and filed his answer herein.

Answer. The separate answer of Christopher Greenup, one of the defendants to the bill of complaint exhibited against him and others by Reuben Garnett, in the circuit court of the United States of America for the Kentucky district, in chancery. This respondent, saving and reserving to himself all manner of benefit of exception to the many untruths, false allegations, &c. contained in the said complt's. bill, for answer thereunto, or to so much thereof as he is advised is material for him to answer unto, he answereth and saith, that it may be true that the complainant has such an entry, survey, and grant, as is set forth in his bill, but this respondent does not admit it, and requires full proof of the same; neither does he admit that the said lands therein described is on a Seventh Big fork that comes in on the north side of the North Fork of Elkhorn, nor does the entry contain that certainty and precision which the law requires. Your respondent further answers and says, that on the day of he purchased five hundred acres of land in Scott county, which was sold as the property of Robert Smither, and is said to be derived from an entry made by Roe, and regularly carried into grant; he further denies that the entry thereof was vague, or that the survey thereon was improperly made. This respondent having been in peaceable possession of part of the lands, has sold out the whole, part of which is already conveyed to John Sebree. He denies all combination, &c., and prays to be hence dismissed, with his reasonable costs.

CHRISTO. GREENUP.

FRANKLIN COUNTY, *sct.*

This day came Christo. Greenup before me, one of the justices of the peace for the county aforesaid, *that what* he has set forth in his foregoing answer, from his own knowledge, is true; and what is set forth from the information of others, he believes to be true. Given under my hand, this 2d day of May, 1816.

O. G. WAGGENER.

Ans. of Ferguson, &c., filed. And afterwards, to wit, at rules held in the clerk's office of the court aforesaid, in the month of August, and year 1816, (until which time this cause was continued,) came the defendants James Ferguson, Larkin Ferguson, James Chambers, John Colvert, and Joseph Abbott, and filed the following answer herein, to wit:

Answer of Ferguson, &c. The joint and separate answer of James Ferguson and Henry Jenkins, to the bill of complaint exhibited against them and others, by Reuben Garnett, in the circuit court of the United States of America for the district of Kentucky, in chancery. These def'ts, saving and reserving to themselves all manner of benefit of exception to the many untruths, false statements, and allegations, &c., contained in the said complainant's bill, for answer thereunto, or to so much thereof as these def'ts are advised is material for them to answer to, they answer and say: that it may be true that the complainant did make an entry, and cause the same to be surveyed and patented as set forth in the said bill; but they deny that it was made with such certainty and precision as the law requires, and demand full proof of the compl't to establish the same; nor do they admit that the survey was made on the Seventh Big fork, about thirty miles below Bryant's station, that comes in on the north side of the North Fork of Elkhorn, or that the same is made conformable to law, and they also require due proof of the same; that the def't, James Ferguson, claims three hundred and seventy-seven acres, as assignee of Daniel Barton, who was agent for Robertson, who married Eleanor Hodge, to whom the land was granted. And the def't, Henry Jenkins, claims sixty-two and one half acres as ass'ee of Tho. Smith, who was ass'ee of John Brown, who was assignee of John C. Owings, to whom the land was granted, as this def't is informed. And the def't, Henry Jenkins, also claims twenty acres as assignee of Nicholas Hobbs, who was assignee of Wm. Plummer, who was ass'ee of Wm. Holland, who was assignee of Anderson, who was ass'ee of Wm. Hayden, to whom the land was granted, as this def't is informed; and the def't, Jenkins, is creditably informed that his lands is not covered by Reuben Garnett's survey, and if so, he begs to be dismissed from costs. Larkin Ferguson claims ninety acres as assignee of Charles Lecompt, to whom the land was granted. James Chambers claims eighty acres as assignee of James Ferguson, who was assignee of Larkin Ferguson, who was assignee of Charles Lecompt, to whom the land was granted. John Colvert claims one hundred and three acres as assignee of James Ferguson, who was assignee of Eleanor Hodge, to whom the land was granted. Joseph Abbott claims fifty acres as assignee of the heirs of Alexander McConnell, dec'd, to wit, Isbell, Hannah, Elizabeth, Rebecca, Allen, and Mary, and Jane McConnell, citizens of the State of , heirs of Alex'r McConnell, dec'd, as assignee of John Brown, who was assignee of John C. Owings, to whom the land was granted, as these def'ts are informed. That the def'ts have obtained legal titles, and are in peaceable possession of the same; they deny all combination, &c., and pray to be hence dismissed with their reasonable costs.

SCOTT COUNTY, *sct.*

This day came before me, one of the justices of the peace for the county aforesaid, James Ferguson, Henry Jenkins, Larkin Ferguson, James Chambers, Joseph Abbott, and John Calvert, and made oath that what they have jointly and severally set forth in the foregoing answer, from their own knowledge, is true, and what they have set forth from information, they believe to be true. Given under my hand, this 30th day of July, 1816.

MARVIN DUVALL, *J. P.*

Answer of John Brown filed. And afterwards, to wit, at rules held in the clerk's office of the court aforesaid, in the month of November, and year 1816, (until which time this cause was continued,) came the defendant, John Brown, and filed his answer herein.

Brown's answer. The separate answer of John Brown, one of the def'ts to the bill of complaint exhibited against him and others, by Reuben Garnett, in the circuit court of the United States of America for the Kentucky district, in chancery. This defendant, saving and reserving to himself all manner of benefit of exception to the many untruths and false allegations contained in the complainant's said bill for answer thereto, or unto so much thereof as he is advised is material, he answereth and saith, that it may be true that the complainant has such an entry, survey, and patent, as he has set forth in his bill, but this def't does not admit it to be so, nor does he admit that the lands discribed in said survey and grant do lie on the Seventh Big fork that comes in on the north side of the North Fork of Elkhorn, about 30 miles from Bryant's station; nor, in his opinion, does his said entry contain that precision and certainty which the law requires, and, therefore, upon all these points he demands of the complainants full and satisfactory proof. This def't, further answering, saith that he is not acquainted with the boundary lines of the tract claimed by the compl't, but, from information, thinks it very probable that it has been erroneously surveyed: it may interfere in part with certain lands conveyed to this def't in the year 1801, by John Cockey Owings, who held them under patents regularly obtained, and of date prior to that of the complainant, which will appear from reference to said patents; which deed of conveyance from Owings, and patents, this defendant prays may bec onsidered as part of this his answer. This def't further states that, long before the commencement of this suit, he sold and conveyed acres, part of the land conveyed to him as aforesaid by said Owings, to Thomas Scruggs. Also, about sixty-two and a half acres, part thereof, to Thomas Smith, and now claimed by Jenkins, a def't in this suit. Also, about four hundred and fifty-eight acres thereof to McConnells', daughters of Alex. McConnell, and to Kelong, son-in-law of said McConnell. Also, acres to James Brenham, for which no deed of conveyance has, as yet, been made to said Brenham by this def't. That, on the 27th of November, 1801, the tract of land claimed by the complainant by his bill aforesaid was, agreeably to law, exposed to sale by the register of the land office for the taxes and interest due thereon for the year 1800, having been duly listed for taxes in the name of John Garnett, who then lived thereon as the proprietor thereof. That this def't is desirous to extinguish the interference between said tract, and the lands conveyed to him by Owings as aforesaid, became the purchaser of two hundred and eighty acres, to be taken off the west side of said tract, which were sold at said sale as aforesaid; all which will more fully appear from the books in said register's office, will more fully appear; and to certified extracts thereof herewith filed, this defendant begs leave to refer. This defendant, therefore, contends that the said complainant hath no claim to, and cannot, with propriety, demand any part of the said two hundred and eighty acres sold to him as aforesaid agreeable to law. This def't denies all unlawful combination, &c., and prays to be hence dismissed with his reasonable costs in this behalf expended, and he, as in duty bound, shall pray, &c.

J. BROWN.

FRANKLIN COUNTY, *Nov* 4, 1816.

The within named John Brown this day personally, before the undersigned a justice of the peace in and for said county, made oath that the statements made in the within answer, of his own knowledge, are true; and those made from information, he believes to be true.

O. G. WAGGENER.

Replication to answers, and comm'n.

And afterwards, to wit, at rules held in the clerk's office of the court aforesaid, in the month of December, and year 1816, (until which time this cause was continued on the rules,) came the complainant, by his counsel, and for replication to the answer of the defendants filed herein, says, that the statements contained in said answers, and each of them, so far as they contradict the allegations of his said bill, are untrue, and that the allegations of his bill are true; and a commission is awarded either party to take depositions.

Repl'n and com'n.

And afterwards, to wit, at rules held in the clerk's office of the court aforesaid, in the month of May, and year 1817, (until which time this cause was continued on the rules,) came the complainant, by his counsel, and for replication to the answers of the defendants, Christopher Greenup, James Ferguson, and Henry Jenkins, says, that the statements contained in said answers, and each of them, so far as they contradict the allegations of his said bill are untrue; and that the allegations of his bill are true; and a commission is awarded either party to take depositions.

Comm'n.

And afterwards, to wit, at the May term of the court aforesaid, in the year 1817, on motion of the complainant, by his counsel, it is ordered that either party have leave to take depositions generally in or out of this district, before any two justices of the peace, notary public, or mayor of any city, upon giving to the adverse party legal notice of the time and place of taking the same.

Rule for answers.

And afterwards, to wit, at rules held in the clerk's office of the court aforesaid, in the month of June, and year 1817, (until which time this cause was continued,) came the complainant, by his counsel, and on his motion, it is ruled that the def'ts herein, who have not answered the complainants bill, file their answers thereto on or before the next rule day.

McConnell's answer filed.

And afterwards, to wit, at rules held in the clerk's office of the court aforesaid, in the month of June, and year 1818, (until which time this cause was continued,) came the defendants, Mary McConnell, Jane McConnell, and Rebecca McConnell, by their counsel, and filed their joint answer herein, to the complainant's bill.

Answer.

The joint answer of Mary McConnell, Jane McConnell, and Rebecca McConnell, defendants to a bill in chancery, exhibited against them and others in the circuit court of the United States for Kentucky State, by Reuben Garnett. These defendants, saving and reserving to themselves all benefit of exception to the many untruths and errors in the complainant's bill contained, for answer to so much thereof as they are advised is material, they answer and say, that they do not know, of their own knowledge, that the complainant made the entry set forth in his bill, or that it contains the requisite certainty and precision, or that the survey thereon is conformable to law. They therefore demand that the complainant may be compelled to exhibit full and satisfactory proof in support of the allegations contained in his bill. They state that the land claimed by them, was conveyed to them by John Brown, a defendant to the said bill, who they are informed purchased it from John Cockey Owings, the original patentee: they deny all unlawful combination, &c , and pray to be hence dismissed with their costs in this behalf wrongfully expended; and they shall pray, &c.

SCOTT COUNTY, *sct.*

Before the subscriber, a justice of the peace in and for said county, came Mary McConnell, Jane McConnell, and Rebecca McConnell, and made oath

that the several facts within contained, so far as their own knowledge, is true; and so far as concern the knowledge of others, they believe to be true. Given under my hand and seal, this 2d day of May, 1818.

MARVIN DUVALL, *J. P.*

Rule for hearing. And afterwards, to wit, at rules held in the clerk's office of the court aforesaid, in the month of Dec., and year 1823, (until which time this cause was continued,) came the defendants, by their counsel, and gave the complainants a rule for hearing herein.

Set for hearing. And afterwards, to wit, at rules held in the clerk's office of the court aforesaid, in the month of April, and year 1824, (until which time this cause was continued,) came again the said defendants, by their counsel, and on his motion, it is ruled that this cause be set for hearing at the next term of this court.

Bill of revivor filed. And afterwards, to wit, at the May term of the court aforesaid, in the year 1825, on motion of the complainants, by their counsel, leave is given them to file a bill of revivor herein, which is done accordingly, and time is given the compl't until the 6th day of the next term to give security for costs.

Order survey. It is ordered that the surveyor of county do go on the land in controversy between the parties on the day of next, if fair; if not then on the next fair day, and then and there lay off and survey the same as either party may direct, having due regard to all deeds and other evidence that may be produced, report all matters of fact specially, and return one fair plat and certificate thereof into the clerk's office of this court thirty days at least before the day of trial; and the marshal or one of his deputies is directed to attend the said survey, to remove force, should any be offered.

Dedimus awarded complainant. A dedimus is awarded the complainants to take depositions generally, in or out of this district, before .

To the Hon. Judge of the United States' Court, 7th Circuit, Kentucky District:

Bill of revivor. Your orators, Reuben M. Garrett, son and executor of Reuben Garnett, dec'd, James J. Garnett, Robert Garnett, son of John Garnett, dec'd, Muscoe G. Wood, son of Susan Wood, dec'd, formerly Susan Garnett, and your oratrixes Milderd Garnett, Maria J. G. Mathews, daughter of Susan Wood, formerly Susan Garnett, Catharine Micon, daughter of Susan Wood, dec'd, formerly Susan Garnett, Martha Jones, daughter of Susan Jones, dec'd, formerly Susan Garnett, Mary Garnett, Lucy Garnett, and Juliet Garnett, daughters of John Garnett, dec'd, Maria T. Ayres, formerly Maria T. Garnett, and David J. Ayres, husband of said Maria T., devisees and legal representatives of Reuben Garnett, dec'd, humbly complaining, respectfully represent, that their ancestor and devisor, Reuben Garnett, departed this life on the day of . That some time in the year 1815, the said Garnett, in his lifetime, commenced a suit in chancery in this honourable court against Christopher Greenup and others, for 1,164⅔ acres of land, situate on what is now called Lecompt's run, in the county of Scott, by virtue of an entry made the 10th of May, 1780; that the said Garnett this his agent had made considerable progress in preparing said suit for trial, as will more at large appear by reference to the bill, answers, and depositions, filed in this court. That said Reuben Garnett, by his last will and testament, (which when filed is prayed to

be taken as part of this bill,) devised the aforesaid tract of land to the aforesaid complainants; but now so it is, may it please your honor, the said Reuben Garnett being dead, in order that his intentions and devise may be carried into effect, and that justice may be administered, your orators and oratrixes pray that the aforesaid suit may be revived against the defendants to the original bill herein, in the name of the complainants hereto, and that your honor will grant to the complainants a writ of spa. to revive against the said def'ts to the original bill herein; that your honor will consider the original bill herein, with all its allegations and prayers, as a part of this bill, and order and decree thereupon whatever may be just and equitable, and such other and further relief, &c. &c. Your orators and oratrixes would further represent, that, since the filing of the original bill herein, Christopher Greenup, one of the defendants hereto, has departed this life, leaving behind him Nancy Gamble, the wife of Gamble, formerly Nancy Greenup, now residing in the State of Virginia, Susan Luckett, wife of Craven P. Luckett, late of Florida, and late Susan Greenup, Lucetta Greenup, now residing in Kentucky, and Christopher Greenup, now residing in Virginia, heirs and legal representatives of said Christopher Greenup, dec'd, all of whom are prayed to be made defendants hereto, and that the original suit herein may stand revived against them, &c.

COWAN, *P. Q.*

THE UNITED STATES OF AMERICA, *to the Marshal of the Kentucky District, greeting:*

Ch'y spo. [L. S.] You are hereby commanded to summon Christopher Greenup, Nancy Gamble, late Nancy Greenup, Susan Luckett, late Susan Greenup, Lucetta Greenup, Charlotte Greenup, heirs and representatives of Christopher Greenup, dec'd, to appear before the judge of our seventh circuit court of the United States in and for the Kentucky district, at the Capitol in Frankfort, on the first Monday in November next, to answer a bill in chancery exhibited against them by the heirs and representatives of Reuben Garnett, dec'd, citizens of the State of Virginia, and this they shall in no wise omit under the penalty of four hundred dollars, and have then and there this writ. In testimony whereof, John Marshall, esq., Chief Justice of the Supreme Court of the United States, hath caused the seal of our said court to be hereunto affixed, this 16th day of June, 1825, and of our independence the 49th.

Attest, JNO. H. HANNA, *C. C. C. K. D.*

Executed 28th June, 1825, on Susan Luckett and Lucetta Greenup; the others are not inhabitants of the Kentucky district, and have not been found in it.

NEWTON LOUGHERY, *D. M.*
for CHAPMAN COLEMAN, *M. D. K.*

Executed on Christopher Greenup, 29th Aug. 1825.
CHAPMAN COLEMAN, *M. D. K.*

Order dismissing suit. And afterwards, to wit, at the November term of the court aforesaid, in the year 1826, (until which time this cause was continued,) came the defendants, by their attorney, and the complainants

failing further to prosecute this suit, it is ordered that the same be dismissed, and that the defendants recover of the complainants their costs herein expended.

Order dismissing set aside. And afterwards, to wit, on a subsequent day of the term and year last aforesaid, to wit, the November term, 1826, on motion of the complainants, and by consent of the defendants counsel, R. Wickliffe, esq., it is ordered that the dismission entered up at the present term be set aside, and cause reinstated.

Order dismissing suit. And afterwards, to wit, at the May term of the court aforesaid, in the year 1828, (until which time this cause was continued,) came the defendants, by their counsel, and the complainants failing further to prosecute this suit, it is ordered that the same be dismissed, and that the defendants go hence and recover of the complainants their costs herein expended.

Order dismissing set aside. And afterwards, to wit, on a subsequent day of the term and year last aforesaid, to wit, the May term 1828, came the parties aforesaid, by their counsel, and by consent it is ordered that the nonsuit entered herein on a former day of this term, be set aside, and the cause again placed on the docket.

Leave to take depo's. And afterwards, to wit, at the May term of the court aforesaid, in the year 1829, (until which time this cause was continued,) on motion of the complainants by their counsel, leave is given either party to take depositions generally, and further proceedings are continued until the next term for and at the costs of the complainants.

Cause argued, and time. And afterwards, to wit, at the November term of the court aforesaid, in the year 1829, (until which time this cause was continued,) this cause came on to be heard upon the bill, answers, &c., and was argued by the counsel of the parties, but the court not now being sufficiently advised of, and concerning the same, took time, &c.

Order special survey, and com'n. And afterwards, to wit, on a subsequent day of the term and year last aforesaid, to wit, the November term, 1829, it is ordered that the surveyor of Scott county ascertain and report to this court at the next term, the relative sizes of the several principal branches, which empty into the North Fork of Elkhorn, on the north side, and leave is given the parties respectively to take depositions.

Amended bill and bill of revivor filed. And afterwards, to wit, at the May term of the court aforesaid, in the year 1830, (until which time this cause was continued,) on motion of the complainants, by their counsel, leave is given them to file an amended bill, and bill of revivor, in this cause, which amended bill, and bill of revivor, is filed accordingly.

Bill. The complainants, Reuben M. Garnett, son and executor of Reuben Garnett, dec'd, James J. Garnett, Robert Garnett, son of John Garnett, dec'd, Muscoe G. Wood, son of Susan Wood, dec'd, formerly Susan Garnett, Mildred Garnett, Maria J. G. Mathews, daughter of Susan Wood, formerly Susan Garnett, Catharine Micon, daughter of Susan Wood, dec'd, formerly Susan Garnett, Martha Jones, daughter of Susan Jones, dec'd, formerly Susan Garnett, Ellen Jones, daughter of Susan Jones, dec'd, formerly Susan Garnett, Mary Garnett, Lucy Garnett, and Juliet Garnett, daughters of John Garnett, dec'd, Maria T. Ayres, formerly Maria T. Garnett, and David J. Ayres, husband of said Maria T. Ayres, devi-

sees and legal representatives of Reuben Garnett, dec'd, by way of amendment and revivor to their original bill herein, beg leave to represent, that James Ferguson, Larkin Ferguson, Thomas Scruggs, Wm. Lane, and Wm. St. Clair, alias Sinclair, who are defendants to the original bill herein, have departed this life since the filing of said bill. That John Ferguson, Rhodes Ferguson, Wm. Ferguson, Thomas Ferguson, James Ferguson, jr., and Eunice Macklin, wife of John Macklin, formerly Eunice Ferguson, are the heirs of James Ferguson, dec'd, and John Ferguson, son of James Ferguson, dec'd, now resides on the tract of land in controversy, and for which said James in his lifetime was sued by the ancestor of the aforesaid complainants, by his original bill herein, and that said John claims to hold said tract in his own right by a pretended purchase of some kind. The complainants further represent, that Robert W. Sinclair, James Sinclair, and Jesse S. Sinclair, are the heirs and legal representatives of Wm. Sinclair, dec'd, and that Seton W. Norris, and Abbey his wife, Turbut T. Betton, and Eliza his wife, and Isaac S. Gardner, are the heirs and legal representatives of Wm. Lane, dec'd. The complainants further represent that John M. Ferguson, and Elizabeth Sanders wife of Nathaniel Sanders, formerly Elizabeth Ferguson, are the heirs and legal representatives of Larkin Ferguson, dec'd. That Thomas B. Scruggs, William Scruggs, Abraham Scruggs, Valentine Scruggs, Simeon Scruggs, Elizabeth Johnson, wife of John S. Johnson, late Elizabeth Scruggs, Parmelia Lindsay, wife of Wm. Lindsay, dec'd, late Parmelia Scruggs, and Nancy Sole, wife of Wm. Sole, late Nancy Scruggs, and Scruggs, widow of said Thomas Scruggs, are the heirs of Thomas Scruggs, dec'd, and his legal representatives. The heirs of said Scruggs, the complainant's charge, have an interest and reside on the land in controversy, they are prayed to be made defendants thereto, and that a spa. in chancery issue, &c. And the heirs of Wm. Lane, dec'd, the complainant's charge, have an interest in the land in controversy, and reside thereon, they are prayed to be made defendants, and that a spa. in chancery issue against them, &c., and that they answer the allegations of the original bill herein, and such decree may be pronounced against them as the nature of the case may require, and agreeable to the prayer of the original bill herein. All of whom the aforesaid complainants pray may be made defendants hereto. That this suit be revived against them, and that they may answer the allegations of the original and amended bills herein, and that such decree be entered against them as prayed for in the original bill herein against their ancestor, and such other and further relief as the justice of the case may require, &c.

HAGGIN & COWAN, *for compl'ts.*

THE UNITED STATES OF AMERICA, *to the Marshal of the Kentucky District, greeting:*

Ch'y spa. [L. S.] You are hereby commanded to summon John Ferguson, Rhodes Ferguson, William Ferguson, Thomas Ferguson, James Ferguson, jr. and Eunice Macklin, wife of John Macklin, formerly Eunice Ferguson, heirs of James Ferguson, dec'd.; Robert W. Sinclair, James Sinclair, and Jesse S. Sinclair, heirs and legal representatives of Wm. Sinclair, dec'd, Seaton W. Norris, and Abbey his wife, Turbut T. Betton, and Eliza his wife, and Isaac S. Gardiner, heirs and representatives of Wm. Lane, dec'd, and John M. Ferguson, Elizabeth Sanders, wife of Nathaniel Sanders, formerly Elizabeth Ferguson, heirs and legal representatives of Larkin Ferguson, dec'd.; Thomas B. Scruggs, Wm. Scruggs, Abraham

Scruggs, Valentine Scruggs, Simon Scruggs, Elizabeth Johnson, wife of John S. Johnson, late Elizabeth Scruggs, Pamelia Lindsay, wife of William Lindsay, dec'd, late Pamelia Scruggs, Nancy Sole, wife of Wm. Sole, late Nancy Scruggs, and Scruggs, widow of said Thomas Scruggs, heirs and legal representatives of said Thomas Scruggs, dec'd.; to appear before the judges of our seventh circuit court of the United States in and for the Kentucky district, at the Capitol in Frankfort, on the first Monday in November next, to answer a bill, amended bill, and bill of revivor in chancery, exhibited against them by Reuben M. Garnett, son and executor of Reuben Garnett, dec'd, James J. Garnett, Robert Garnett, son of John Garnett, dec'd, Muscoe G. Wood, son of Susan Wood, dec'd, formerly Susan Garnett, Mildred Garnett, Maria J. G. Mathews, daughter of Susan Wood, formerly Susan Garnett, Catharine Micon, daughter of Susan Wood, dec'd, formerly Susan Garnett, Martha Jones, daughter of Susan Jones, dec'd, formerly Susan Garnett, Ellen Jones, daughter of Susan Jones, dec'd, formerly Susan Garnett, Mary Garnett, Lucy Garnett, and Julia Garnett, daughters of John Garnett, dec'd, Maria T. Ayres, formerly Maria T. Garnett, and David J. Ayres, husband of said Maria T. Ayres, devisees and legal representatives of Reuben Garnett, dec'd, and this they shall in no wise omit under the penalty of four hundred dollars each, and have then there this writ. In testimony whereof, John Marshall, esq., Chief Justice of the Supreme Court of the United States, hath caused the seal of our said court to be hereunto affixed, this 20th day of May, 1830, and of our independence the 54th year.

Attest, JNO. H. HANNA, *C. C. C. K. D.*

This day Joseph S. Norris came into court, and made oath that he served the within summons on Abraham Scruggs, Henry V. Scruggs, Juda Scruggs, widow of Thomas Scruggs, dec'd, Elizabeth Johnson, wife of John S. Johnson, late E. Scruggs, Simon Scruggs, John Ferguson, Rhodes Ferguson, Isaac Gardner, Eunice Macklin, wife of John Macklin, late E. Ferguson, James Sinclair, and Thomas Ferguson, by reading it, and explaining the contents to each of the persons above.

Attest, JHO. H. HANNA, *C. C. C. K. D.*

November 11, 1830.

Surveyor's report re-committed.

And afterwards, to wit, at the November term of the court aforesaid, in the year 1830, (until which time this cause was continued,) on motion of the complainants by their counsel, it is ordered that the survey and report made out and returned in this cause by Joseph S. Norris, be recommitted to him, said Norris, for amendment.

Comm's and agreement.

And afterwards, to wit, on a subsequent day of the term and year last aforesaid, to wit, the Nov. term, 1830, came the parties aforesaid, by their counsel, and by their agreement this cause is to remain on the issue docket; and dedimuses are awarded either party to take depositions herein. And the parties agree that the State practice may be pursued in taking depositions by the complainants or defendants, and that notice to James Cowan shall be sufficient to the complainants, and to Thomasson for the defendants. And by consent of the complainants leave is given the defendants to file their answers herein, without making oath to the same. And it is agreed by the parties that all depositions heretofore taken agreeably to the State practice, are to be read as evidence on the hearing of this cause.

Leave for re-survey.

And afterwards, to wit, at the May term of the court aforesaid, in the year 1831, (until which time this cause was continued,) came the complainants aforesaid, by their counsel, and on his motion leave is given the complainants to make a re survey of the land in controversy between the parties in this suit.

Answer of sundry defts. filed.

And afterwards, to wit, at the November term of the court aforesaid, in the year 1831, (until which time this cause was continued,) came the defendants Henry Jenkins, John Colvert, Joseph Abbott, Stephen Thomasson, John Brown, Larkin Ferguson, James Chambers, James Branham, James Ferguson, William St. Clair, Rebecca McConnell, James McConnell, Isabella McConnell, Abram Scruggs, Henry V. Scruggs, Juda Scruggs, Simeon Scruggs, Elizabeth Johnson, John Ferguson, Rhodes Ferguson, Isaac Gardner, Eunice Macklin, James Sinclair, and Thomas Ferguson, by their counsel, and filed their joint and several answer to the complainant's bill.

Answer of Henry Jenkins and others.

The joint and several answers of Henry Jenkins, John Colvert, Joseph Abbott, Stephen Thomasson, John Brown, Larkin Ferguson, James Chambers, James Branham, James Ferguson, Wm. Sinclair, Rebecca McConnell, James McConnell, Isabella McConnell, Abram Scruggs, Henry V. Scruggs, Juda Scruggs, Simeon Scruggs, Elizabeth Johnson, John Ferguson, Rhodes Ferguson, Isaac Gardner, Eunice Macklin, James Sinclair, Thomas Ferguson, to a bill in chancery filed against them and others in the circuit court of the United States for the seventh circuit and Kentucky district, by Reuben Garnett, and since revived in the names of Reuben M. Garnett and others, styling themselves his heirs, devisees and legal representatives. These respondents, saving unto themselves all manner of exception to the man*ner*, errors, and uncertainties in the original and amended bills, and bills of revivor, and all other pleadings on part of the complainants for answer thereto, and to so much thereof as they are advised it is material or necessary for them to answer, answer and say, jointly and severally: they jointly and severally deny that the claim set up by the complainants is good and valid in equity to the land in contest, or any part thereof. They deny that the complts. or any one of them, or any person whom they pretend to derive title from, ever had a survey covering the land in controversy, or any part thereof. They deny that the entry under which the complts. pretend to derive title is valid, and they also insist that it will not cover any of the land in contest if correctly laid down. They deny that the complainants have any title, either in law or equity, to the land in contest, or any portion thereof. They insist and charge that the entries and surveys under which each of them claim are valid and good, and that they have a good and valid claim in equity to the whole of the land in contest. These defts. also charge that they, and each of them, and those under whom they claim and derive title, have had possession of the whole of the land in contest for twenty years and upwards, before the institution of the present suit, and also before they were served with process, and also before the emanation of process against them respectively, which possession was adverse to the claim of the complts., and also to the claim of all other persons, and they rely upon this possession as a bar to the relief prayed by the complainants. They also state and charge that they, and those under whom they claim and derive title, have had possession of the whole of the land in contest, (claim-

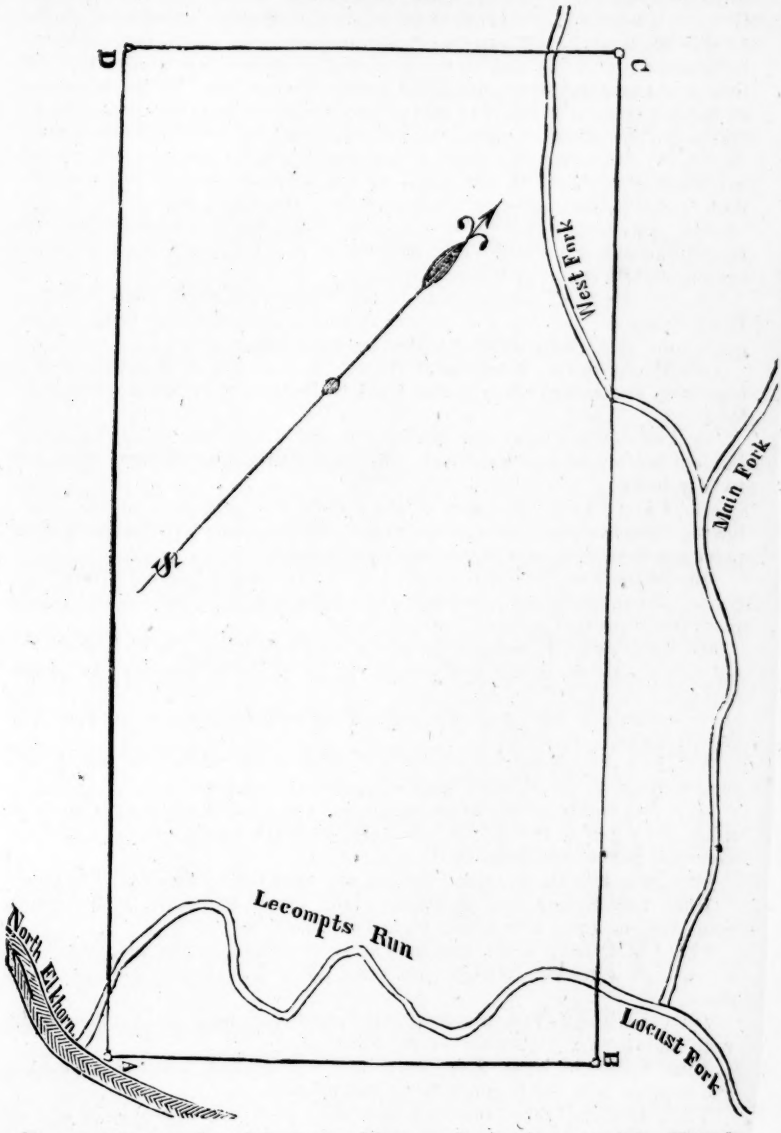
ing by title deducible of record from the commonvealth,) for seven years and upwards, before the commencement of the present suit against them, and also before they were served with process, and also before the emanation of process, which possession consisted of actual residence upon the land, and which was adverse to the claim of the complainants now attempted to be enforced and to all others. They plead and rely upon this fact also as a bar to the relief sought by the complainants. These defts. having fully answered, deny all the allegations of the bill, amended bills, and bills of revivor, &c., which they have not expressly admitted, and call for full proof of the same, deny all fraud, and deny that the complainants, or either of them, are the heirs. devisees, executors, or legal representatives of said Reuben Garnett, dec'd, and call for full proof thereof, and pray to be hence dismissed with their costs, &c.

MILLS & BROWN, *for Defts.*

Guardian ad litem appointed, and answers adopted, and cause heard, and time.

And afterwards, to wit, on a subsequent day of the term and year last aforesaid, to wit, the November term, 1831, ordered by the court that Mason Brown, esq., be appointed guardian ad litem for the infant heirs of Larkin and James Ferguson, and William Sinclair; whereupon the said guardian, by the consent of the complts., filed and adopted the answer of Jenkins and others filed at the present term, wichh answer is also by consent of parties adopted and filed as the answer of all the defts. that have not answered. And this cause came on to be heard upon the bills, answers, depositions and exhibits, and the court not being now sufficiently advised of and concerning the same, took time, &c.

Surveyor's Report.



Pursuant to an order of the honorable seventh circuit court of the United
tes of America for the district of Kentucky, made at the term, where-

in Reuben Garnett's devisees and representatives are complainants, and Greenup's heirs and others are defendants, in chancery; I proceeded on the 13th of September, 1830, to survey the complainant's claim, beginning at a large cedar stump standing on a cliff of north Elkhorn, four poles above the mouth of Lecompt's run, shown by James Cowan, esq., for the beginning of Reuben Garnett's survey of 1,164⅔ acres, and run from thence N. 50, E. 300 poles, the distance terminated in clear land, no corner found; thence N. 40, W. 622 poles, this distance terminated also in cleared land, no corner found; then S. 50, W. 300 poles, no corner found, although in the woods; then S. 40, E. 622 poles to the beginning. Represented by A. B. C. D.

I then proceeded, under the special order of said court, to examine the principal branches putting into North Elkhorn on the north side below Bryant's station, and do report as follows, to wit.

1st. David's fork, putting into North Elkhorn, a small distance below Bryant's station, measured at the mouth four poles and eleven links; higher up beyond backwater, three poles and eighteen links.

2nd. Opossum run, measures at the mouth one pole at highwater mark; higher up at common water mark, eighteen links; said to be about two miles long.

3d. Little North Elkhorn, measured at the mouth four poles; higher up beyond backwater, measured four poles, and still higher up three poles and twenty links.

4th. Cherry's run, measures at the mouth two poles and twenty links, having tolerable high banks at the mouth; above backwater it measures three poles and five links, still higher up, three poles.

5th. Miller's run, measures at the mouth two poles ten links, having high banks; above backwater it measures two poles and eight links, and at a third place measures two poles and twenty links.

6th. Lane's run: I measured its whole length, and find it to be 2,106 poles, equal to six miles one half and twenty-six poles, and measures at the mouth two poles and ten links, highwater; common water, one pole three links; above backwater one pole and eight links, still further up one pole and twenty links.

7th. Dry run, measures at the mouth, high water mark, five poles, common water, four poles, and higher up measures four poles.

8th. McCrackin's run, whole length measures 1,132 poles, equal to three miles and a half and twelve poles; measures at the mouth one pole, and the same just below the forks.

9th. Mile branch, is a small branch, measures the whole length 516 poles.

10th. Blue Spring run, measures whole length 965 poles, at the mouth measures one and a half poles; higher up, one pole.

11th. McConnell's run, measures at the mouth four poles and twenty-one links, high water mark; higher up three poles four links, common water mark.

12th. Lecompt's run, measures at the mouth four poles and eighteen links, with high banks; higher up measures six poles.

13th. Called by some Long branch, one and a half poles at the mouth, and suppose it to not be more than three miles long.

14th. Buffaloe branch measures two poles wide, and is said to be a short stream.

15th. The branch passing Mrs. Holton's and empties into North Elkhorn just above the forks of Elkhorn is a small stream, and is said to not be very long, would measure about one pole eighteen links.

These are all the branches I could find putting in on the north side of North Elkhorn, below Bryant's station, to the forks of Elkhorn. I will further observe that I was particular in selecting such places on every branch to measure which I conceived to be the medium widths.

Depositions, to wit.

Jordan's depo. The deposition of Patrick Jordan, taken at the house of John Ficklin, in Jessamine county, on the 27th day of June, 1817, between the hours of ten in the morning and seven in the afternoon, to be read as evidence in a suit in chancery now depending in the seventh circuit court of the United States of America, for the district of Kentucky, between Reuben Garnett, complainant, and Christopher Greenup, John Brown, James Ferguson, and others, defts. This deponent, being duly sworn, deposeth and saith:

Question by Samuel Ayres, agent for Reuben Garnett, the complainant. How long have you been acquainted with the place called Bryant's station?

Ans. I travelled up Elkhorn in the year 1775, and passed through the neighborhood where Bryant's station was afterwards built, but never was at the station after it was built, until the month of August, 1780; I was then stationed there as a guard, and acted in the capacity of a spy, during the tour of duty which I think was a month or two.

Question by same. Did you ever at that time hear Lecompt's run called the Seventh Big fork of Elkhorn, below Bryant's station?

Ans. I recollect that shortly after I went to Bryant's station as a guard, as above stated, some of the hunters, after being out a hunting came in, when James Forbes, or some one of the men belonging to the station, asked them whether they had been as low down as the Seventh Big fork, (or the Seventh fork.) On hearing this inquiry, I inquired which of the forks was called the Seventh Fork? They then told me it was the creek which was also called Lecompt's run; after which, and ever since that time, I have known it by both names, as I had before known it by the name of Lecompt's run in the year 1779, being the same creek that I had in the year 1775 assisted Charles Lecompt in making his cabin on, but never heard the creek called by his name, that I recollect of, until 1779, about the time, as well as I now recollect, when the commissioner's were sitting.

Quest. by same. Was not Bryant's station built on North Elkhorn, and was it not a place of general notoriety in the year 1780?

Ans. It was built on the bank of North Elkhorn, and certainly was as much a place of notoriety as Lexington, or any other place in the country, or settlement of Kentucky.

Quest. by the same. How far was it then called from Bryant's station to the Seventh Big fork, otherwise called Lecompt's run?

Ans. I do not recollect precisely, but suppose it was about twenty-five or thirty miles.

Quest. by Joseph Abbott, one of the defts. Was the creek you now call the Seventh Big fork generally known by that name at Bryant's station, Lexington, and McConnell's station, as early as the tenth day of May, 1780?

Ans. I was but little acquainted at Lexington and McConnell's station, but at Bryant's station, while I was there in that year, it was generally called by that name.

Quest. by Samuel Ayres, for complt. Does not the Seventh Big fork, as above mentioned, empty into North Elkhorn on the north side thereof?

Ans. It does; and further this deponent saith not.

PATRICK JORDAN.

Ficklin's depo. The deposition of John Ficklin, taken at the same time and place, to be read as evidence in the same suit.

Quest. by Samuel Ayres, for the complt. How long have you been acquainted with the place called Bryant's station?

Ans. Ever since the fall of the year 1781; in that year I moved my family there, and continued to reside there until the spring of the year 1783.

Quest. by the same. Was you, during that time, acquainted with the waters of North Elkhorn, below Bryant's station?

Ans. I was well acquainted with the waters of North Elkhorn as low down as Lecompt's run, having frequently hunted on them waters, and often went out as chain-carrier and chopper with the surveyors.

Quest. by same. Did you, during that time, ever hear Lecompt's run also called the Seventh Big fork of North Elkhorn below Bryant's station?

Ans. I frequently heard it called the Seventh Big fork while I lived at Bryant's station, but do not recollect whether I heard it by that name earlier than 1782.

Quest. by the same. Was not the creek called North Elkhorn a water course of general notoriety; and was not Bryant's station also a place of notoriety at that time?

Ans. Yes, I believe so, as much as any other place in Kentucky.

Quest. by the same. How far was it then called from Bryant's station down to the Seventh Big fork, also called Lecompt's run?

Ans. I think it was called thirty miles the way we generally travelled on the north side, but it was not as much the way it was travelled on the south side. The exact difference in the distance I do not know.

Quest. by same. Did not Bryant's station stand on the south side of North Elkhorn near the creek?

Ans. Yes, it did.

Quest. by the same. Does not the Seventh Big fork of North Elkhorn, which is also called Lecompt's run, empty into North Elkhorn on the north side; and is not the computed distance of "about thirty miles" as stated in Reuben Garnett's entry, now in dispute, which you have this day seen, as near as might have been expected without actual measurement?

Ans. The Seventh Big fork of North Elkhorn, also called Lecompt's run, does empty into North Elkhorn on the north side; and as to the distance from Bryant's station, I think about thirty miles a very near computation. And it was also called that distance by the hunters who lived at Bryant's station.

Quest. by Joseph Abbott, one of the defts. How do you know the run now called Lecompt's run, to be the Seventh Big fork below Bryant's station, emptying in on the north side of the North Fork of Elkhorn; and by what rule did you ascertain it?

Ans. From viewing the water courses, and from hearing the hunters call it Lecompt's run, as well as by the name of the Seventh Big fork below

Bryant's station, emptying in on the north side as above stated, which run I well knew as passing near the Stamping ground.

Quest. by the same. Was the run now called the Seventh Big fork generally known by that name by the inhabitants of Bryant's station, Lexington and McConnell's station, settlements most convenient thereto?

Ans. I do not know whether the Lexington or McConnell's station people called it by that, or what name they called it by, but at Bryant's station, where I lived, it generally went by that name. And further more the deponent saith not.

JOHN FICKLIN.

STATE OF KENTUCKY, *Jessamine County, to wit.*

We, Richard Lafon and Samuel H. Craig, two justices of the peace in and for the county of Jessamine, do certify that the foregoing depositions of Patrick Jordan and John Ficklin, was taken, subscribed, and sworn to before us. Given under our hands and seals, this 27th day of June, 1817.

RICH'D LAFON. [SEAL.]
SAML. H. CRAIG. [SEAL.]

Stucker's depo. The deposition of Jacob Stucker, taken at the house of Robert Hartness, in the county of Scott, on the 25th day of June, 1817, between the hours of ten in the morning and seven in the afternoon, to be read as evidence in the suit in chancery, depending in the seventh circuit court of the United States for the district of Kentucky, between Reuben Garnett, complt., and Christopher Greenup, John Brown, James Ferguson and others, defendants. This deponent being duly sworn, deposeth and saith.

Question by Samuel Ayres, agent for Reuben Garnett, the complt. How long have you been acquainted with the waters of Elkhorn?

Ans. Ever since the month of January, 1780.

Quest. by same. Was Bryant's station at that time a place of notoriety; and did it not stand on or near north Elkhorn?

Ans. It was a place of notoriety, and did stand near north Elkhorn.

Quest. by the same. Was not the creek now called Lecompt's run at that time, or some time in that year, called the Seventh Big fork of Elkhorn, paying attention to those only which empty in on the north side of North Elkhorn below Bryant's station?

Ans. I frequently heard it called by the name of the Seventh Big fork by the Forbeses, Bryants and others, who hunted in that direction as early as some time in the year 1780, and '81, but never knew precisely as to my own knowledge which creek was called by that name, until the year 1782, when I was on a scout from Lexington to the mouth of the Kentucky, against the Indians, in company with Capt. Robert Patterson, now called Colonel Patterson, Andw. Steele, Alex. McLane, Jas. Masterson, and others, we crossed the creek now called Lecompt's run, where we stopped awhile to take some refreshment. In the course of conversation at that place, Alexander McLane told me the creek we were then on was called Lecompt's run, and it was also the creek that was called, by the hunters, the Seventh Big fork of North Elkhorn, which empties in on the north side below Bryant's station.

Quest. by the same. At what time of the year did you cross Lecompt's run (or the Seventh Big fork) as above stated?

Ans. I think it was about the first of July, as I recollect we returned a short time before the battle at Bryant's station, which began on the 16th day of August, 1782.

Quest. by the same. Was there any more than seven large or conspicuous forks of North Elkhorn, emptying in on the north side from Bryant's station, down to the creek above named, including the one then called Lecompt's, or the Seventh Big fork?

Ans. There was not.

Quest. by the same. What are the names that the above mentioned seven forks are now called by?

Ans. 1st, David's fork; 2d, Little North fork; 3d, Cherry's run; 4th, Miller's run; 5th, Dry run; 6th, McConnell's run; 7th, Lecompt's run.

Quest. by the same. Are there not three small branches which empty into North Elkhorn between Bryant's station and the Seventh Big fork, called Possom run, Lane's run, and McCracken's run?

Ans. There is a small branch between David's fork and the Little North fork, called Possum run, and another between Miller's run and Dry run, called Lane's run, and another between Dry run and McConnell's run called McCracken's run; but these branches are small in comparison with the other seven, being hemmed in by them, and do not branch out as do the others, but run in small beds or channels, more like spring branches.

Quest. by John Calvert, one of the defts. Are there not two other branches called the Mile branch, and the Blue Spring branch?

Ans. There are, but they are not larger than the other three small branches above mentioned, not being more than one mile and a half long.

Quest. by Samuel Ayres, for the complt. What distance do you suppose it is from Bryant's station to the mouth of the Seventh Big fork, now called Lecompt's run, going down on the north side, the way it was commonly travelled?

Ans. I think it well on to thirty miles.

Quest. by the same. Had you been called on to direct the survey on Reuben Garnett's entry of 1,164⅔ acres, which you have this day seen, which calls for the mouth, or near the mouth of the Seventh Big fork of North Elkhorn below Bryant's station, &c., as early as the year 1780, or at any time since, would you not have fixed upon, and naturally been led to the mouth of the creek now called Lecompt's run, as the place intended by the locator?

Ans. That would be the place that I should direct to as the proper place agreeably to the calls of the entry, which I discover calls for the Seventh Big fork of Elkhorn, which empties in on the north side of North Elkhorn, about thirty miles below Bryant's station.

Quest. by the same. Did not Patrick Jordan act in the capacity of a spy at Bryant's station in the year 1780?

Ans. He did, as well as I now recollect, continued there a month or more, some time in the fall of that year.

Quest. by the same. Was Patrick Jordan, at that time, and is he yet considered a man of truth and veracity?

Ans. He was very much so at that time, and I know nothing to the contrary now. And further this deponent saith not.

his
JACOB + STUCKER.
mark.

SCOTT COUNTY, *to wit.*

The foregoing depositions was sworn to and subscribed before us, David Flournoy and Samuel Finley, two of the justices of the peace for said county, at the place and time as stated above.

D. FLOURNOY.
SAMUEL FINLEY.

Hartness's depo. The deposition of Robert Hartness, taken at the house of said Hartness, in the county of Scott, on the 25th of June, 1817, betwixt the hours of ten o'clock and seven in the afternoon, to be read as evidence in a suit in chancery, depending in the seventh circuit court of the United States for the district of Kentucky, between Reuben Garnett, complt., and Christopher Greenup, John Brown, James Ferguson, and others, defts. This deponent being duly sworn deposeth and saith.

Question by Samuel Ayres, agent for the complainant. How long have you been acquainted witn the waters of Elkhorn?

Ans. I have been acquainted with Little North Elkhorn and Cherry's run, branches of North Elkhorn, ever since the year 1776, but was not acquainted with the other forks of Elkhorn until the fall of the year 1783, and the winter and spring of 1784, about which time I moved my family to Bryant's station, shortly after which I became well acquainted with all the waters as low as Dry run, and some acquainted with McConnell's run, and Lecompt's run, but not as well as those above.

Quest. by the same. Was not North Elkhorn, at that time, a creek of notoriety, and was not Bryant's station, near North Elkhorn, at that time, also a place of notoriety?

Ans. They were.

Quest. by the same. Was not, at that time, David's fork, Little North fork, Cherry's run, Miller's run, Dry run, McConnell's run, and Lecompt's run, the seven largest forks or branches of north Elkhorn, emptying in on the north side below Bryant's station?

Ans. They were.

Quest. by the same. Were there at that time any other branches putting into North Elkhorn on the north side between Bryant's station and what is now called Lecompt's run, large enough to be considered big forks, when compared with North Elkhorn, or the other seven forks above mentioned?

Ans. There was not.

Question by the same. Are there not three other small branches putting into North Elkhorn on the north side between Bryant's station and Lecompt's run, or the Seventh Big fork, which are called Possom run, Lane's run, and McCracken's run?

Ans. There are; but in the year 1783 or 84, and about the time I first became acquainted with them, they were too small to be considered large forks, not being larger, if so large, as the branches or forks of some of the seven forks.

Quest. by same. Did not the three branches above mentioned, to wit, Possom run, Lane's run, and McCracken's run, at the time above mentioned, look more like drains or guts than big forks, when compared with the main creek, or the seven forks first above mentioned?

Ans. They did not look near as big as any of the other seven.

Quest. by same. Suppose you had seen at that time the entry which you have this day seen in the name of Reuben Garnett for 1,164⅔ acres which calls for the mouth of the Seventh Big fork of Elkhorn emptying in on the north side of the North Fork of Elkhorn, about thirty miles below Bryant's station, and had been called on to direct the survey, would you not have been naturally led to the mouth of the creek, now called Lecompt's or the Seventh Big fork; and ought not a stranger have done the same by counting the forks or branches, when paying attention to the distance, and the real spirit and the special calls of the entry?

Ans. I know I should, and I think a stranger would also.

Quest. by John Calvert. Did you know the creek in question by the name of Lecompt's run before you knew it by the name of the Seventh Big fork?

Ans. I knew it by the name of Lecompt's run, some little time before I knew it by the name of the Seventh Big fork, but cannot say how long, perhaps a year, or it might not be so much. And further this deponent saith not.

his
ROBT. + HARTNESS.
mark.

SCOTT COUNTY, *to wit.*

The foregoing deposition was subscribed and sworn to in the time and place mentioned in the preamble, before us, David Flournoy and Samuel Finley, two of the justices of the peace for said county.

DAVID FLOURNOY.
SAMUEL FINLEY.

Shannon's depo. The deposition of Hugh Shannon, taken before the undersigned, two of the justices of the peace for the commonwealth of Kentucky for the county of Scott, taken to be read in evidence in the suit in chancery, depending in the circuit court of the United States for the district of Kentucky, wherein Reuben Garnett is complt., and James Ferguson and others are defendants. Taken in pursuance to a dedimus potestatem issued to the undersigned from the said court in the said suit, who being duly charged and sworn, deposeth and saith that he is well acquainted with the stream called Lecompt's run, and that the said stream hath been well known and generally called Lecompt's run since 1776.

Question 1st. by defendant, James Ferguson. Are you well acquainted with the stream North Elkhorn, and the big forks putting into said stream below Bryant's station on the north side?

Ans. Yes; but the big forks, except McConnell's run and Lecompt's run, I am not.

2d. By the same. Hath not Lecompt's run been known by, and generally called by that name by hunters and others acquainted in that part of the country since 1776?

Ans. It has.

3d. By same. Were you acquainted with Charles Lecompt's improvement, and did you show that improvement to the surveyor of Scott county?

Ans. Yes, I was well acquainted with the improvement of Charles Lecompt in 1775, and did show it to the surveyor of Scott county several times.

4th. By same. Hath not that improvement from 1776 until this day been generally and notoriously known and called by the name of Lecompt's improvement?

Ans. It has.

Quest. 5th by same. Did you ever hear Lecompt's run called by the name of the Seventh Big fork?

Ans. I did not.

Quest. 1, by Samuel Ayres, agent for the plaintiffs. How early were you acquainted with Bryant's station?

Ans. In the winter, 1779.

2d. By same. Were you well acquainted with the inhabitants at that time?

Ans. Only partially acquainted while waiting on the commissioners who were sitting at that time.

3d. By same. What distance was it called at that time from Bryant's station to the mouth of Lecompt's run?

Ans. I lived in Lexington, and do not recollect the distance, and cannot say that there was any communication between Bryant's station and Lecompt's run.

4th. By same. What was the distance, in early times, called from Lecompt's run, or the mouth thereof, to the mouth of McConnell's run?

Ans. I do not recollect what was the distance.

5th. By same. At what time did you show Lecompt's improvement to the surveyor of Scott county?

Ans. I do not recollect.

6th. By same. Was it not seven or eight years after the improvement was made before the certificate was entered on the ground, or location made?

Ans. I cannot tell, but I know the improvement was made in 1775.

7th. By same. What kind of an improvement was it, and how far from the mouth of the creek?

Ans. It was a very good cabin and covered, but how far from the mouth of the creek I cannot tell.

8th. Did not Lecompt make other improvements on other waters?

Ans. I believe he did.

Quest. 9th. by same. Was any one man entitled to more than one improvement for himself?

Ans. I refer that to the law.

10th. By same. Do you know of any run below Lecompt's run, on the north side of Elkhorn, called and known by the name of Lane's run in 1780, or as late as 1784?

Ans. I do not.

Quest. by James Ferguson, one of the defts. Do you know any run in the State of Kentucky that is called Lecompt's run, besides the one that is mentioned above that puts into North Elkhorn, on the north side?

Ans. I do not. And further this deponent saith not.

HUGH SHANNON.

Emerson's depo. Also, Ash Emerson, who being duly charged and sworn, deposeth and saith, that he is well acquainted with North Elkhorn, and the branches putting into the same on the north side, from McConnell's run up to Bryant's station.

Quest. 1st, by James Ferguson. Had you been called on as early as 1780 to say which was the Seventh Big fork or big run putting into North Elkhorn on the north side below Bryant's station, which would you have cited me to?

Ans. David's fork, Little North fork, Cherry's run, Miller's run, Lane's run, Dry run, McCrackin's run, McConnell's run, and Lecompt's run, and McCrackin's run is the seventh. In 1776, I knew McConnell's run by that name, and Dry run by that name; and our company gave Miller's run and Cherry's run their names, but other people called them by other names; and the Little North fork was called the Little North fork or North branch, and David's fork had its name; and the reason why I am so perfect in a knowledge of the number of the runs, I took men with me, who were sworn, to Bryant's station, and counted the runs down, and Miller's run was then considered the fourth.

Quest by James Ferguson. What distance is it from Bryant's station to Lecompt's run?

Answer. I should suppose 21 or 22 miles.

Quest. by the same. Did you ever hear of there being any other run called by the name of Lecompt's run, or did you ever hear it called the Seventh Big fork?

Ans. I never knew any other run called Lecompt's run but the one above mentioned; neither do I recollect to have heard it called the Seventh Big fork.

Quest. by Samuel Ayres, agent, &c. In counting the distance as early as 1780, from Bryant's station to Lecompt's, would it not have been considered further by several miles than at the present time, since the roads are opened?

Ans. It might have been thought some little further, but I thought I put it to the extremity when I said 21 or 22 miles.

Quest. by same. Would you not think it further to travel up the north side?

Ans. I would think it a little further.

Quest. by same. Were not McCrackin's run and Lane's run at that time considered much smaller than the other runs above mentioned, and were they not considered too small to be called big forks when compared to North Elkhorn?

Ans. The branches are not as big as the others, but Lane's run heads as far up into the ridge as any of the others, and not so large a bed.

Quest. by same. Does not the dividing ridge between the waters of Elkhorn and Eagle creek, in which Lane's run heads, bend southardly, and come nearer North Elkhorn at that place than at the heads of the other creeks?

Ans. I really think it does.

Quest. by same Is not McCrackin's run a very short branch, and does it not look more like a wet weather drain than a big fork?

Ans. It is a short branch, and does not head as far into the ridge as the others, but I considered it to hold water, and to be a branch with the others, and would count it so.

Quest. by same. Is not the bed of McCrackin's run much smaller than any of the rest named, except Lane's run?

Ans. It is a smaller run than any of the others except Lane's run, but no great deal of difference between that and Lane's run. And further this deponent saith not.

ASH EMERSON.

Valandingham's depo. Also, Lewis Valandingham, who, being duly charged and sworn, deposeth and saith that he was well acquainted with North Elkhorn from 1782 to 1784, and ever since, and his knowledge of North Elkhorn and the several branches above described is precisely as stated by Ash Emerson, the foregoing deponent.

Quest. by Saml. Ayres, agent, &c. Is not Boyd's fork, which is only a branch of Cherry's run, as large as Lane's or McCrackin's run?

Ans. I do not know. And further this deponent saith not.

his
LEWIS + VALANDINGHAM.
mark.

Miller's depo. Also, John A. Miller, who being duly charged and sworn, deposeth and saith that he came to Kentucky 25th Dec., 1775, Christmas day, and that he was in the course of that winter following employed in improving lands in the State of Kentucky; and that, in the spring, 1776, he was with others petitioned out from Leestown to Dry run, so called then, by William McConnell, and that he came on purpose to show us where to improve, so that we might not interfere with the military surveys; and at that time I believe that Lecompt's run was known, and McConnell's run and Dry run, but for the other runs and branches I think they had not obtained their names at that time. And as to the number of runs from Bryant's station downwards to Lecompt's run, at that time I did not know them, but since that time I found out the number of them; but, in counting runs, (I don't count myself a judge,) what will be called big forks or runs, but in my estimation I count David's fork one, and the Little North fork one, Cherry run one, and Miller's run one, and McCracken's one, and McConnell's run one, and Lecompt's run one. This is my account of the runs or branches.

Quest. by James Ferguson. Were you not appointed a commissioner to count the big runs emptying into North Elkhorn on the north side from Bryant's station to Lecompt's run?

Ans. I was called upon to ascertain the number of branches from Bryant's station, to include Dry run on the north side.

Quest. by same. Hath not Lecompt's run been notoriously and generally called by that name by hunters and others acquainted in that part of the country since 1776?

Answer. As for other people's acquaintance, I do not know, but I think it was known by the name of Lecompt's run by the company with me and others in 1776, and have never known it by any other name since.

Quest. by Samuel Ayres, agent, &c. Were you well acquainted with Bryant's station, and its inhabitants, as early at 10th of May, 1780?

Ans. I was not fully acquainted with the place nor its inhabitants at that time only by information.

Quest. by same. Was it not common for hunters and people from different stations, in that early day, to call the same water course by different names?

Ans. In these branches above named, I do not know of any, except Lane's run, which I think was called Hall's run, but still retains the name of Lane's run; and in a law case some of the Bryants, in evidence I think, seem to call Miller's run a Dry run.

Quest. by J. Ferguson. What was the number you made Dry run to be?

Ans. Same as before stated.

Quest. by Saml Ayres, agent, &c. What was the distance called from Bryant's to Lecompt's run as early as the 10th of May, 1780?

Ans. I do not know.

Quest. by same. What distance was it called from Bryant's to the Great Crossings, when Col. Johnson settled at that place, passing up the south side?

Ans. Fifteen or sixteen miles.

Quest. by same. Was it not called nine or ten miles from the Crossing to the mouth of Lecompt's run; and would it not be further on the north side, the way they generally travelled from Bryant's station to the mouth of Lecompt's run?

Ans. I do not know the distance from the crossing to the mouth of Lecompt's run, neither then nor now; nor did I ever know any road on the north side, but suppose it to be a little further.

Quest. by same. Are not the branches called McCrackin's and Lane's run much smaller than the other seven named by you?

Ans. I believe they are smaller.

Quest. by same. Is not Boyd's fork, which is only a branch of Cherry's run, as large as either Lane's or McCrackin's run?

Ans. I think not as large as either, but nearly as large as Lane's, but not so long.

Quest. by same. What length do you suppose the North Fork of Elkhorn to be from its junction with the south fork to the head, the way it is generally travelled, or on a straight line?

Ans. On a straight line I suppose thirty miles or thereabout.

Quest. by same. How far is it from the head of Lane's run to the mouth, on a straight line?

Ans. I think about five or six miles.

Quest. by same. Is not McCrackin's run shorter than Lane's run?

Ans. I believe it is.

Quest by Samuel Ayres, agent, &c. Did the entry which you were called upon as commissioner call for the big forks below Bryant's station only, or did it call for all the branches large and small?

Ans. I cannot at present tell you.

Quest. by James Ferguson. How many big forks or runs empties into North Elkhorn between Bryant's station and the mouth of Lecompt's run, on the north and south sides?

Ans. I have stated and numbered the runs on the north side above, and on the south side. I know of none that I would call a large branch or fork but Cain run, except some might call the Royal spring at Georgetown a large branch or run, which I do not. And further this deponent saith not.

JOHN A. MILLER.

SCOTT COUNTY, *sct.*

The above depositions were signed and sworn to by Hugh Shannon, Ash Emerson, Lewis Valandingham, and John A. Miller, before us, two of the

commonwealth's justices of the peace for said county. Given under our hands and seals, this 2d day of November 1818.

MARVIN DUVALL, *J. P. S. C.* [SEAL.]
JNO. BRANHAM, *J. P. S. C.* [SEAL.]

Long's depo. The deposition of John Long, senr., taken before the undersigned, two of the justices of the peace in and for Woodford county, and commonwealth of Kentucky, taken to be read as evidence in a suit in chancery depending in the circuit court of the United States for the district of Kentucky, wherein Reuben Garnett is complainant, and James Ferguson, and others, are defendants, taken in pursuance of a dedimus from said court issued to the undersigned, who, being duly charged and sworn, saith that he is acquainted with the stream called Lecompt's run, and that the said stream hath been well known and generally called Lecompt's run since the year 1779 or 1780; that he is well acquainted with the North Fork of Elkhorn, and the big forks that run into it, beginning at David's fork, called the first going down, Little North Elkhorn, Cherry's run, Miller's run, Lane's run, Dry run, McConnell's run, and Lecompt's run; but whether named in rotation he don't know, since the year 1779 and 1780.

Quest. by deft. Had you been called on at that day, would you have called them big forks?

Ans. We generally called them the principal big forks.

By same. If you had been asked by any person which was the Seventh Big run running into Elkhorn on the north side below Bryant's station, on the 10th day of May, 1780, to which would you have directed him?

Ans. To McConnell's run.

By same. Hath not Lecompt's run been notoriously and generally called by that name by hunters and others *and others* in that part of the country since 1780?

Ans. I never heard any other name for it since the first knowledge I had of it to this day. He further states that, from Bryant's station to Lecompt's run, he generally in that day called it about twenty miles by land, but as he never travelled it by water, he cannot tell the distance that way.

Quest. by Samuel Ayres. Is not Lane's run much smaller than the others you have named?

Ans. I do not recollect.

By same. Is not Lane's run shorter than the others you have named; and does not the dividing ridge between Eagle creek and Elkhorn bend southwardly from Dry run, going up the creek towards Lane's run?

Ans. I don't know which is the largest, but the ridge bends southardly towards Lane's run going up the creek from Dry run.

By same. Is not the ridge nearer North Elkhorn about the head of Lane's run than it is below?

Ans. I think it is.

By same. What route did you generally travel in making the distance twenty miles from Bryant's station to Lecompt's run?

Answer. We generally went down the south side, and crossed at the Great Crossing, and then on the north side.

By same. Would it not be eight or ten miles further to go down on the north side?

Ans. I suppose it would be five or six miles.

Quest. by the deft. Where did you live at that time?

Ans. I lived at Bryant's and the Burnt station in the years 1779 and 1780. And further he saith not.

JOHN LONG.

Williams's depo. Also, the deposition of John Williams, taken as above: he being first charged and duly sworn, saith that—

Quest. by defts. Had you had beed asked by any person which was the Seventh Big fork running into Elkhorn on the north side below Bryant's station, on the tenth of May, 1780, to which fork would you have directed him?

Ans. I should not have *not* known where to have directed, as I never heard of such a branch at that time.

Quest. by same. What year was you first acquainted with North Elkhorn and with Lecompt's run?

Ans. I was acquainted with North Elkhorn in the year 1775, and was on Lecompt's run in 1776, and there was six more in company with me at that time, and it was shown to me by some one of the company, and never heard it called by any other name but by one man, and that he called it McConnell's run; but that it was not the run that was called McConnell's run, as I did a good deal of surveying in that neighborhood, and heard it called by one other name, only as above stated.

Quest. by same. Hath not Lecompt's run been notoriously and generally called by that by hunters and others acquainted in that part of the country, since 1776?

Ans. As far as know of, I have generally heard it called by that name.

By same. Were you acquainted with Charles Lecompt's improvement, and did you then not know that improvement was Lecompt's improvement in Scott county, in the year 1776?

Ans. I was showed it as such, and have known it as such ever since.

Quest. by same Hath not that improvement from 1776 until this day been generally and notoriously known and called by the name of Lecompt's improvement?

Ans. I know it to be such.

Quest. by Saml. Ayres. Was Lecompt one of the six men in company with you at the time you were first on that run, as above alluded to?

Ans. No.

By same. Who gave it that name, and from what circumstance did it get its name?

Ans. I can't tell, unless it was from the improvement that was made.

By same. Did not Lecompt leave this country shortly after his improvement was made, and was it not several years after before his location was made on that ground?

Ans. I do not know when he left this country; he returned in 1779. It was laid in by Joseph Waller, but, as to the location, I would refer you to the office for information.

Quest. by same. Was it not very frequent by companies of hunters at that time to call the same creek by different names?

Ans. Yes.

By same. Was you acquainted with the waters of Elkhorn as early as the year 1780, as high up as Bryant's station, the 10th of May of the same year?

Ans. I was not well acquainted with the different branches at that time as high up as Bryant's station.

Question by same. Was you well acquainted as high up as Lane's run?

Ans. I was not acquainted above Georgetown, which was then called McCallen fort.

Quest. by same. Are you, or will you be interested in the establishment of Lecompt's run by that name?

Ans. I shall be, but not in this suit; but others I shall. And further he saith not.

JOHN WILLIAMS.

McConnell's depo. Also, the deposition of James McConnell, at the same time and place, deposeth and saith.

Quest. by the deft. What year did you first come to the State of Kentucky?

Ans. In the year 1776; and came acquainted with Lecompt's run in the month of April, the same year, and never have heard it called by any other name, until late years it has been called by the people the Seventh run.

Quest. by same. Hath not Lecompt's run been notoriously and generally called by that name by hunters and others acquainted in that part of the country, since 1776?

Ans. I have never heard it called by any other name except James Ferguson or Thos. Herndon, in this suit, and that was in the present year, 1818.

Quest. by same. Were you acquainted with Charles Lecompt's improvement, and did you not then know that improvement to be Lecompt's that is now in Scott county?

Answer. I was not at making the improvement, but Lecompt informed me he intended to live there himself; that he made that improvement.

Quest. by same. Hath not that improvement, from 1776 until this day, been generally and notoriously known and called by the name of Lecompt's improvement and run?

Ans. I never heard the improvement called by any other name.

Quest. by Saml. Ayres. Were you well acquainted with the North Fork of Elkhorn, between Bryant's station and the creek called Lecompt's run, as early as the 10th of May, 1780?

Answer. No.

Quest. by same. How high up the creek were you acquainted as early as that date?

Answer. No higher than the Great Crossing where Johnson now lives. And further he saith not.

JAMES McCONNELL.

Smith's depo. Also, John Smith, taken at the same time and place, deposeth and saith.

Quest. by the deft. What year did you come to the State of Kentucky?

Ans. In the year 1773.

Quest. by same. When were you first acquainted with North Elkhorn and its waters?

Ans. I was acquainted with the head waters of North Elkhorn in the same year.

Quest. by same. When were you first acquainted with Lecompt's run that emptied in North Elkhorn by name?

Ans. I became acquainted with Lecompt's run early in the spring, 1775.

Quest. by same. Did you ever hear Lecompt's run called by any other name since that time to this day?

Ans. I never did until a few days ago by Mr. Ferguson; he informed me they were about calling it the Seventh Big branch or fork.

Quest. by same. Were you acquainted with the number of big forks that empties into North Elkhorn below Bryant's station, and did you know them by name?

Ans. I can't say big forks, but I say we improved on Lecompt's run, on McConnell's run, McCrackin's run, Dry run, Lane's run, Miller's run now called, and had no name at that time I knew, and Cherry's run, and what is now called Little North fork and David's fork.

By same. Had you been called on at that day, would you have called all them big forks or runs?

Ans. I should have called them branches or runs, one or the other as come first.

By same. Which of those would you call the Seventh Big fork or run emptying in below Bryan's, on the north side, had you been called on in that day?

Ans. I think, to the best of my knowledge, McCrackin's run.

By same. What distance, the way you travelled it, would you call it from Bryan's station to the mouth of Lecompt's run?

Ans. One or two and twenty miles, and, to meander the creek, I should give my opinion that it is forty or fifty miles.

By same. Hath not Lecompt's run been notoriously and generally called by that name by hunters and others acquainted in that part of the country since 1776, and do you know how the run first took its name?

Ans. Yes, and it took its name from Charles Lecompt making an improvement on it in 1775.

By same. Hath not Lecompt's improvement from 1776 until this day been generally and notoriously called by the name of Lecompt's improvement?

Ans. I never heard it called by any thing else.

By Saml. Ayres. Had McCrackin's and Lane's runs their names in 1775?

Ans. We gave them their names at that time.

By same. Are not those two runs much smaller than Lecompt's run, McConnell's run, Dry run, and the rest of the runs above mentioned?

Ans. They are some little smaller at the mouth, but they branch out into a body of very good land as large as the others, and I don't think they are as long.

By same. What distance do you suppose it is from Bryant's station passing on the north side down to the mouth of Lecompt's run, the way you generally travelled?

Ans. I suppose it to be thirty miles.

By same. Was it not common, by hunters and others, to call the same creek by different names in that day?

Ans. It was a very common thing, but I never knew Lecompt's run called by any other name.

By same. What distance do you suppose it to be from the mouth of Lecompt's and McConnell's run?

Ans. I suppose from two to two and a half miles at the mouth, and a little nearer about a mile above.

By same. Had Lecompt any other improvement in the country? Ans. None that ever I knew. And further he saith not.

his
JOHN + SMITH.
mark.

We certify that the above deposition, of John Long, John Williams, James McConnell, and John Smith, were this day taken, signed, and sworn, to before us. October 31, 1818.

H. WATKINS, *J. P.*
WM. B. LONG, *J. P.*

Lindsay's depo. Pursuant to notice herewith filed, produced to take the deposition of Anthony Lindsay and others at the Stamping Ground, at the house of Thomas True, in Scott county, State of Kentucky, on Monday the 4th day of Oct., 1830, to be read in evidence in a suit now depending in the United States' court for the Kentucky district; wherein James Cowan, agent for the heirs and administrators of Reuben Garnett, are complainants, and Greenup's heirs and others, are defts. This deponent being of lawful age, and duly sworn, deposeth and saith, that, in the year 1791, he became acquainted with the general boundary of Reuben Garnett's claim of land on Lecompt's run in Scott county; that in the year 1793, John Perkins made a settlement on that part of said claim which is now in the occupancy of James Chambers; the settlement aforesaid was made under James Ferguson, who claimed by purchase from Charles Lecompt. That in the year 1794, Larkin Ferguson settled on the said tract. This deponent further saith, that he is not personally acquainted with all the principal branches of North Elkhorn, but has a perfect recollection of hearing the first and early settlers of the country frequently in speaking of them in common conversation, as also in deposition taken in his presence, denominate Lane's run as one of the principal large branches emptying into Elkhorn below Bryan's station.

ANTHONY LINDSAY.

Herndon's depo. The deposition of Henry Herndon taken as above, being of lawful age, and duly sworn, deposeth and saith, that, in the year 1781, he moved from Virginia, and settled in Bryant's station, near the head of North Elkhorn, and resided there some three or four years, during which time he made many hunting excursions in which he became acquainted with all the principal branches emptying into North Elkhorn from Bryant's station to the Great Crossings; that the branch now denominated Lane's run was, at the earliest moment of his acquaintance with the country, called and known by that name, and considered one of the principal branches or forks of Elkhorn; that he has hunted buffalo and other game of the country from the mouth to the source thereof; that it was rather smaller than the most of those denominated runs, but was always called by that appellation, thereby distinguishing it from a variety of small ravines and branches: is not positive that it has its source at the dividing ridge between Eagle creek and Elkhorn waters; such are his best impressions at this time. And further this deponent saith not.

HENRY HERNDON.

Bell's depo. The deposition of James Bell, taken at the same time and place, stated in the caption, deposeth and saith, that, from the mouth of Little North Elkhorn, that and down Cherry's run, Miller's run, Lane's run, Dry run, McCrackin, McConnell's run, and Lecompt's run, Lane's run reaches to the dividing ridge; and, as far as my knowledge serves me back, they were counted large branches in surveys on the north side of North Elkhorn. And further this deponent saith not. My first knowledge of those branches was in the year 1789.

JAMES BELL.

Jones' depo. The deposition of James Jones, taken at the same time and place stated in the caption, deposeth and saith, that, from the mouth of Little North Elkhorn, that and down Cherry's run, Miller's run, Lane's run, Dry run, McCrackin, McConnell's run, and Lecompt's run, and Lane's run, runs to the dividing ridge of Eagle creek, and discharges as much, or nearly as much, water as any branch on the north side of North Elkhorn; and they were, both Lane's and McCrackin's runs, *were* both counted large branches on the North side of north Elkhorn, or branches of notoriety in surveys. And further this deponent saith not. My first knowledge of these branches was in the year 1789.

JAMES JONES.

Connelly's depo. The deposition of James Connelly, taken at the same time, and place stated in the caption, deposeth and saith, that he will be 69 years old by the 14th day of June next, and that he came to Kentucky in the year 1784, and in the same year I hunted on the same waters, but did not know them by their proper names, and became acquainted with their names in the year 1794, by information of Col Robert Johnson, dec'd, from purchasing the survey whereon I now live, about one quarter of a mile below the mouth of McConnell's run; and from a conversation with Col. Johnson concerning Edmund *Garuntt's* survey, he stated he, Garnett, had a survey calling for the mouth of the *Sixth* Big branch from Bryant's station down on the north side of North Elkhorn; but he, Garnett, could not obtain it, for McConnell's run was the 8th or 9th branch on the north side; and further, he, Col Johnson, said he was acquainted with all the branches on the north side of North Elkhorn from Bryant's station down; and we have had frequent conversations on the same subject, and he always stated McConnell's run to be the eighth or ninth branch; and he further stated that there were some disputes about the length of the branches, but it was his opinion that all the branches which had their source on the Dividing ridge were big branches; and from him and other woodsmen, and from my own knowledge, I always counted Lane's run a big branch, emptying in on the north side of North Elkhorn. I was twice called on when Saml. Ayres of Lexington, was agent for Reuben Garnett, and we searched all round the mouth of Lecompt's run to find the beginning corner, and searched every tree and stump, but could find no marks, until we went up the run to a small bottom on Lecompt's run, near where some cedars stood: there we found an ash marked, but cannot now recollect what the marks were, but no marks on the cedars, as we could discover, than Robert Sanders and others went to establish Garnett's corner; and they stated, according to the best of their recollection of the place, that that was the place where Garnett's beginning corner was, but

not being satisfactory to Ayres, I think there was no record made of the proceedings.

Quest. by deft. What time do you recollect the first settlement was made on the premises?

Ans. In the year 1794, or 3, but I think in the year 1793; which settlement was made by a man by the name of John Perkins, who leased the ground from James Ferguson. And further this deponent saith not

JAMES CONNELLY.

Mosby's depo. The deposition of William Mosby, of lawful age and duly sworn, deposeth and saith, that he lives at the mouth of Lane's run, in Scott county, and has resided there for the space of forty years; that Lane's run is among the largest emptying into North Elkhorn on the north side; that its source is at the Dividing ridge separating the waters of Eagle creek and Elkhorn; that its size at the mouth is rather circumscribed from the circumstance of a mill dam across Elkhorn just below causing mud to settle and obstruct it, but at this time discharges more water than any of the adjacent runs entering into Elkhorn. And says further, that a water fence having been built across the run near the mouth, has tended to reduce the width from 12 to 15 feet from the former size. Further this deponent saith not.

WILLIAM MOSBY.

Payne's depo. The deposition of John Payne, near 67 years, being interrogated and sworn as stated in the above caption, deposeth and saith, that he came to Kentucky in 1782, and has resided ever since the year 1788 at his residence on the North Fork of Elkhorn; that he, this deponent, was appointed surveyor for the county of Scott in the year 1792, being the year the county was taken from Woodford; that, in discharge of the duties as surveyor he became acquainted with all the forks and runs emptying into North Elkhorn from Bryant's station to Lecompt's run; and the first coming into Elkhorn below Bryant's station on the north side of said fork, is called David's fork, the second is Little North fork, third is Cherry's run, fourth Miller's run, fifth Lane's run, sixth Dry run, seventh McCrackin's run, the eighth McConnell's run, and the ninth is Lecompt's run. That all those *eight* runs are entitled to the reputation of waters of considerable notoriety, as they all contained settlement and pre-emption claims by virtue of improvements made thereon. Those coming in on the south side of the North Fork of Elkhorn below Bryant's station and above Lecompt's run, is, first, Royal Spring branch, the second Cain run: there is several small branches emptying into the North fork not known to this deponent by any particular name. And further this deponent saith not.

JOHN PAYNE.

P. S. This deponent knows that Lane's run heads in the dividing ridge separating the waters of Eagle creek and North Elkhorn.

JOHN PAYNE.

SCOTT COUNTY, *sct.*

The foregoing depositions, Anthony Lindsay, Henry Herndon, Wm. Mosby, James Bell, James Jones, James Connelly, and John Payne, were this day taken, subscribed, and sworn to, by said Anthony Lindsay, Henry

Herndon, Wm. Mosby, James Bell, James Jones, James Connelly, and John Payne, before the undersigned justices of the peace for said county, at the time and place, and for the purpose stated in the caption thereof. Given under our hands, this 4th day of October, 1830.

JOHN DUVALL, *J. P.*
RO. McCALLA, *J. P.*

Lee's depo. The deposition of Joseph R. Lee, taken at the office of Mills and Brown, on the 4th day of May, 1831, by the consent of parties, to be read as evidence in a suit in chancery depending in the seventh circuit court of the United States in and for the Kentucky district, wherein Reuben Garnett's heirs and devisees are complainants, and Greenup's heirs and others are defendants. This deponent, being of lawful age, and first duly sworn, deposeth and saith.

Question by deft.'s counsel. Are you or not acquainted with Lecompt's run, in Scott county; and if so, how long?

Ans. I have been acquainted with it for something like thirty-two or three years.

By same. State what you know in regard to the growth of the timber at and near the mouth of the run, and particularly as to cedar timber, between the years 1802 and 1806?

Ans. There was a considerable growth of cedar and other timber there at that time, some large and some small. The growth of cedar extended something like half a mile up the run, from the mouth.

By same. Did you ever make search for a cedar near the mouth of the run, said to be a corner tree?

Ans. I did search for said corner between the years 1802 and 1806. I lived within half a mile of the mouth of Lecompt's run, and I understood a reward was offered to any person that could find the corner to establish Garnett's claim, but, after several diligent searches, I was unable to find either line trees or corner, and I think if there had been a marked corner within fifty or sixty yards of the mouth of Lecompt's run, I should have found it, as I made the search with the view of obtaining the reward that was offered for it.

Quest. by the complt's counsel. Do you know the course of the first line of Garnett's survey running from the mouth of Lecompt's run?

Ans. I do not.

By same. Do you know the courses of any of the lines?

Ans. I do not.

By same. Were you acquainted with John Garnett, and did he or not reside on his claim, and at what time?

Ans. I was acquainted with John Garnett: he resided near the mouth of Lecompt's run, between where John Ferguson's house now stands, and the run, on the upper side of the run.

By same. Did John Garnett settle on the land under Garnett's claim?

Ans. I understood from him that he held under Garnett's claim.

By same. At what time did John Garnett settle there, and at what time did he leave there?

Ans. I do not know either of the dates.

By same. At what time was it that you first knew that he was living on the land?

Ans. I think it was about 33 or 34 years ago: he moved away about two years after I knew him there.

By same. In searching for the corner stone, did you go up Lecompt's run or up Elkhorn?

Ans. I went up both. I went up Elkhorn to the upper end of the cliff, and up Lecompt's run a considerable distance.

Quest. by the deft's counsel. Do you know whether the place where Garnett settled was within the lines as now claimed?

Ans. I don't know where the lines are as now claimed.

By same. Did Garnett ever state to you that he lived within the lines and corners of his brother's survey on which he professed to live?

Answer. He never did. I have heard him say that he did not know where the lines or corners were. And further saith.

JOSEPH R. LEE.

FRANKLIN COUNTY, *sct.*

The foregoing deposition was this day taken, subscribed, and sworn to before the undersigned, a justice of the peace for said county, at the time and place, and for the purposes mentioned in the caption thereof, and in the presence of the counsel of the parties. Given under my hand, this 4th day of May, 1831.

H. WINGATE, *J. P.*

Norris's depo. The deposition of Joseph Norris, taken on Tuesday, the 3d day of May, 1831, at the tavern house of James Combs, in Scott county, about 12 o'clock of said day, to be read as evidence in a suit in chancery now pending in the United States' court, 7th circuit, and Kentucky district, wherein Reuben Garnett's heirs and devisees are complainants, and Christopher Greenup's heirs and others are deft's. This deponent being first duly sworn, and of lawful age, deposeth and saith.

Quest. by compl't's. Have you measured under an order of the aforesaid court in the aforesaid suit, the mouths of the streams running into North Elkhorn on the north side, and will you state the comparative size of Lane's run at the mouth and above the mouth, when contrasted with David's fork, Little North Elkhorn, Cherry's run, Miller's run, Dry run, McConnell's run, and Lecompt's run?

Ans. I have, and consider Lane's run inferior in size to David's fork, Little North Fork of Elkhorn, Cherry run, Miller's run, Dry run, McConnell's run, and Lecompt's run.

Quest. by same. Are you acquainted with the waters of Cherry's run, and Miller's run, and Dry run; and will you state whether they branch out into the country and have considerable forks, and whether they discharge as much, or much more water, than Lane's run?

Ans. I am acquainted with Cherry's, Miller's, and Dry run, and believe them to be more lengthy than Lane's run and Cherry's run; has a large fork near its mouth; and I believe either of the branches of Cherry's run at the said forks equal in size to Lane's run, and has several other tributary streams above said fork. Miller's run has several forks, Dry run has two large forks, either I think as large as Lane's run, and each of the aforesaid streams, Cherry's, Miller's, and Dry run, are more lengthy than Lane's run.

Quest. by same. If you had an entry to locate, calling to begin near the mouth of the Seventh Big fork that empties into North Elkhorn on the north side, about thirty miles below Bryant's station, and you had travelled down Elkhorn, observing the stream putting in on the north side, would you or

not class Lane's run with the big forks, such as David's fork, Little North Elkhorn, Cherry's run, Miller's run, Dry run, McConnell's run, and Lecompt's run; or would you class Lane's run, from its appearance at the mouth and above, among the smaller forks or runs, such as McCrackin's run, Blue Spring branch, &c.?

Ans. As to making a location, had I had to make it when the location in contest was made, I do not know whether I might have located at the mouth of Lecompt's run, or at the mouth of McConnell's run, for the Seventh Big fork below Bryant's station. I have already said I think Lane's run inferior in size to David's fork, Little North fork, Cherry's, and Miller's run, and Dry run. It is longer than McCrackin's run, and Blue Spring run, &c, but measured about the same size at their mouths that Lane's run did.

Question by the same. From your observation in meandering Lane's run, does it or not branch out into forks, or is it fed principally by springs and small drains?

Ans. It has no forks of magnitude, but has some fine springs near its margin.

Question by the same. In the measurement of the mouths of the streams running into Elkhorn as reported by you, was it or not the measurement at common water mark, except where you have distinguished on the report, between high water mark and common water?

Ans. I cannot speak with certainty, not having the report present, but suppose where I did not speak of high water and common water, I suppose I only alluded to common water mark.

Quest. by same. Does not David's fork empty into Elkhorn in a mill dam, and but a short distance above the dam?

Ans Yes, it does.

By defendant. Does Lane's run head in or on the dividing ridge between Eagle creek and North Elkhorn?

Ans. It heads near the top of the ridge. And further this deponent saith not.

JOSEPH S. NORRIS.

SCOTT COUNTY, *to wit:*

The foregoing deposition of Joseph S. Norris was this day taken, subscribed, and sworn to by the said Joseph S. Norris, before the undersigned, a justice of the peace for said county, at the time and place, and for the purpose stated in the caption thereof. Given under my hand, this 3d day of May, 1831.

ROB. McCALLA, *J. P.*

Norris' depo. The deposition of Joseph S. Norris, taken at the house of Lewis Calvert, in the county of Scott and State of Kentucky, on the 6th day of May, 1831, agreeable to the notice hereto annexed, to be read as evidence on the part of the defts. in a suit now depending in the United States' seventh circuit court, and Kentucky district, wherein Reuben Garnett's heirs, &c., are complainants, and Greenup's heirs and others are defts. The deponent being of lawful age, and first duly sworn, deposeth and saith.

Quest. by defts. Did you not make search for corners and line trees when you surveyed the claim of Reuben Garnett's heirs?

Ans. I did search diligently for corners where there was timber: the termination of the distance of the first and second lines was in cleared land, the third line terminated in timbered land, but found no corner; persons that were in company searched for lines trees, but neither corner nor line trees were discovered.

Quest. by same. Are there not some cedar trees higher up the run than the cedar stump where you began to run said survey?

Ans. I meandered Lecompt's run to where the second line crossed said run, and think I recollect to have seen several cedar trees.

Quest. by same. How long have you known Lane's run, and the width of the same at the time *at the time* you became acquainted with it at the mouth?

Ans. Ever since I came to Scott county, which was in the winter 1804, and I think it was much wider then than at present, perhaps as wide again. And further this deponent saith not.

JOSEPH S. NORRIS.

SCOTT COUNTY, *to wit*:

The foregoing deposition of Joseph S. Norris was this day taken and subscribed, and sworn to, by the said Joseph S. Norris, before the under signed, a justice of the peace for said county, at the time and place, and for the purpose stated in the caption thereof. Given under my hand, this 6th day of May, 1831.

ANDW. CALVERT, *J. P. S. C.*

Garnett's depo. The deposition of John Garnett taken this 11th day of May, 1831, at the tavern house of Joseph Skillman, in the town of Owenton, Owen county, in pursuance of the notice hereto annexed, to be read as evidence in a suit in chancery now pending in the United States' court, seventh circuit; and Kentucky district, wherein Reuben Garnett's heirs and devisees are complainants, and Christopher Greenup's heirs and others are defts This deponent being 80 years of age, and first duly sworn, deposeth and saith.

Question by complainants. Were you or not present when the original survey of Reuben Garnett's claim of 1,164⅔ acres was made at the mouth of Lecompt's run, which empties into North Elkhorn? And did you or not act as marker of the said survey; and state the place where the survey begins, and whether or not you marked the beginning corner and the other corners and lines?

Ans. I was present about 45 or 46 years ago, when the original survey of Reuben Garnett's claim of 1,164⅔ acres was made, and according to my best recollection, and I am positive, the survey commenced at a large cedar about 150 yards, more or less, the exact distance I cannot recollect or state, above the mouth of Lecompt's run. The said cedar tree stood at that time in the cliff of Elkhorn: I was directed by the surveyor to mark it, and did so. The surveyor run from said cedar to a willow oak, and another corner tree, the willow oak I well remember, but have no certain recollection what kind of timber the other tree was. The line from the aforesaid beginning to the willow oak I marked with a tomahawk; the surveyor then run the same course further on, and made lines and corners for Peter Samuel's claim, which adjoins R. Garnett's 1,164⅔ acres aforesaid, after running around

Peter Samuel's claim, and coming back to Garnett's second course from the beginning, a corner was made and marked for Garnett's claim. The line between Garnett's claim and Samuel's, and common to the two claims, was not marked. The third line of Garnett's claim was run and marked, and also the corner at the end of said third line. The closing line of Garnett's survey was not run or marked.

Quest. by same. Will you state about what year you became acquainted wit the waters of North Elkhorn, and whether you were acquainted with Lane's run, and state whether it was smaller or greater at the mouth or any where above than Miller's run, Cherry's run, Dry run, McConnell's run, David's fork, Little North Elkhorn, or Lecompt's?

Ans. I became acquainted with Lane's run about thirty years ago, and the other runs above mentioned. Lane's run was not to be compared to the other's as to size: it was smaller, and so narrow that at that time I could jump across it.

Quest. by same. Did you or not take possession of the claim of 1,164⅔ acres aforesaid, for Reuben Garnett, and state the time or year in which you settled within the boundary of said 1,164⅔ acre claim?

Ans. I did take possession of the whole claim of 1,164⅔ acres for Reuben Garnett: as to the year in which I took possession, I can only state that it is 26 years since I moved off from said claim of 1,164⅔, and I lived on said claim either 9 years or 12 years, and I believe it was 12 years.

Quest. by same. Do you or do you not know that the places you settled and lived on for the 12 years were within the claim of Hodges?

Ans. After I settled on said claim of Garnett, I learned that the claim of Hodges covered the place I lived on. I improved and settled first on the lower side of Lecompt's run, and lived there three years; I then settled the place on the opposite side of Lecompt's run, where James Ferguson afterwards lived, and now occupied by his son John.

Quest. by same. Was or not an ejectment brought against you under the title of Hodges, and did you or not surrender the possession in consequence of a judgment obtained in said ejectment?

Ans. There was an ejectment brought under said claim of Hodges, and a judgment obtained, and I was turned out of possession about 26 years ago.

Quest by same. Do you or not know when Larkin Ferguson, James Chambers, Joseph Abbott, James Brenham, Daniel Brenham, James Ferguson, John Calvert, Henry Jenkins, Rebecca McConnell, Jane McConnell, Hannah McConnell, Thomas Scruggs, Ch. Cavenaugh, &c., lived on said claim of Garnett, and whether or not Garnett's boundary includes the aforesaid places, where the aforesaid persons lived?

Ans. Larkin Ferguson, Tho. Scruggs, Alexander McConnell, the father of the aforesaid Rebecca, Hannah, &c., I believe were within the boundary when I moved away. As to others who settled on the land after I moved away, I cannot state.

Quest. by same. Did you, or did you not, at any time since the survey of Garnett was made, state to any person that you never could find any lines or corners to said survey of Garnett? And did you or not make any such statement to Joseph Lee?

Ans. I never did to mortal man, woman, or child, in my life.

Quest. by the defts. What part of said claim of 1,164⅔ acres were you to have for settling the same?

Ans. I was to have 200 acres, and, if it overpaid me, I was to make it up to my brother.

Quest. by same. Did you have said 200 acres laid off to you, and when?

Ans. Never.

By same. After you lost the land, did your brother pay you for your services?

Ans. No sir, not a cent.

Quest. by same. If the land should be gained by Garnett's heirs in this suit, would you not consider yourself entitled to said 200 acres?

Ans. If I had justice, but Reuben Garnett is dead, and I have not a scratch of a pen against him.

Quest. by same. Did you locate this entry for your brother, and what was he to give you for your services?

Ans. I did not; I was not in this country when it was located.

Quest. by same. *Quest. by same.* Did you ever go down North Elkhorn, on the north side of North Elkhorn, from Bryant's station to the mouth of Lecompt's run, and if so when was the first time?

Ans. Yes about thirty years ago, but I cannot tell exactly.

Quest. by same. What are the large forks on the north side of said Elkhorn, from Bryant's station to the mouth of Lecompt's run?

Ans. I will give you the names as far as I know: Lecompt's is the bigest of the whole, McConnell's run, Dry run; I don't recollect further. I have not been along for twenty years, but I believe Lecompt's to be the Seventh Big fork.

Quest. by same. Why do you consider Lecompt's to be the Seventh Big branch, if you do not recollect the others?

Ans. I considered it so then.

Quest. by same. At what time do you speak of, and did you then traverse said creek of Elkhorn on the north side, either to or from Bryant's station to Lecompt's run?

Ans. I speak of about 30 years ago: I went up on the north side to Bryant's station, and have not been there since.

Quest. by same. Does Lane's run head at the dividing ridge between the waters of Elkhorn and Eagle creek?

Answer. I cannot tell.

By same. State what year Larkin Ferguson settled in the boundaries of Lecompt's claim, and whether or not he claimed as his own?

Ans. He was settled there when I went there. He lived in Lecompt's claim, inside of Garnett's claim, and then claimed the land as his own, and it has been held by him, and those claiming under him, ever since.

Quest. by same. When did Thomas Scruggs settle his place, and under whom did he claim and hold?

Ans. Some short time after I settled he purchased in John Brown's claim, and held under his said purchase: he and those claiming under him have so held ever since.

Quest. by same. Who settled first in Brown's claim, McConnell or Scruggs?

Ans. I think McConnell settled first.

Being further interrogated by the defts., he states that he knows the cedar tree spoken of stood one hundred yards or more above the mouth of Lecompt's run.

Quest. by same. When did James Ferguson settle his place, and under whose claim?

When I left the place, he settled where I left, inside of Hodges' claim.

Quest by complainants. Have you or have you not any interest in the event of the suit of Garnett's heirs vs. Greenup's heirs above mentioned?

Ans. No, sir, I have not any interest, nor do I expect to gain or lose any thing whether the suit is decided for complainants or defendants; but I believe if my brother Reuben Garnett was alive he would pay me for my trouble and expense in attending to this claim for him. I once had my accounts made out, but they were destroyed, and it amounted to something like one hundred pounds, and which has not been paid.

Quest. by same. Were you or not to have the 200 acres for investigating and clearing out Garnett's claim, and establishing the title? And were you or not to pay R. Garnett for whatever land you took, which was over and above your expense and trouble in attending to the land?

Ans. Yes, I was to pay him for any land I took, and my expense and trouble was to go in part pay of the 200 acres, or as much as I choose to take. If the 200 acres was worth more than my expenses and trouble, I was to pay for the surplus.

Quest. by same. After you lost the land, what is the reason you did not collect the demand for your expenses and trouble about the land from your brother?

Ans. The reason was, he lived at such a distance, and I was too old to go after it; and he never sent it to me, and if he did I did not get it.

Quest by same. Have you not been where your brother lives, and seen him, since you lost the land?

Ans. I have never been there nor seen him since.

Quest. by same. Could you not have written to him on the subject?

Answer. I have written on the subject, but never got an answer.

The defendant further states, by way of explanation, that his brother, R. Garnett, agreed to let him have as much land as he wanted out of said 1,164⅔ acres, and to allow this deponent a reasonable compensation for his trouble in attending to the claim, and that such compensation and money expended in and about said claim should go in part pay of the land this deponent might choose to take, and if the value of the land this deponent took for himself should overgo his expense and trouble, this deponent was to pay for the overplus, and this deponent settled on the land intending to take 200 acres, but this deponent never had it laid off, because he was turned out by an ejectment. And further this deponent saith not.

his
JOHN + GARNETT.
mark.

OWEN COUNTY, KENTUCKY, *sct.*

The foregoing deposition of John Garnett was this day taken, subscribed, and sworn to, by the said Garnett, before the undersigned, one of the commonwealth's justices of the peace in and for Owen county, at the time and place, and for the purposes, stated in the caption thereof. Given under my hand, this 11th day of May, 1831.

CYRUS WINGATE, *J. P.*

Valandingham's depo. The deposition of Lewis Valandingham, taken on the 11th day of May, 1831, at the house of Joseph Skillman, in the town of Owenton, Owen county, by consent of parties, to be read as evidence in a suit in chancery now depending in the United States' court, seventh circuit and Kentucky district, wherein Reuben Garnett's heirs and devisees are complainants, and Christopher Greenup's heirs and others are defendant's, to be read on behalf of the defendants; deponent being of lawful age, and first duly sworn, deposeth and saith:

Quest. by defts. State when you came to Kentucky, and when, and if so, how long you have been acquainted with Lane's run, and where it entered into Elkhorn, and what was its size and description?

Ans. I came to Kentucky early in the year 1780. I was then about 20 years of age. I became acquainted with Lane's run in the year 1780 or 1782, and have been acquainted with it ever since. It empties into North Elkhorn a little above the Little North fork thereof. It was called one of the runs that emptied into North Elkhorn. It was in early times considered and esteemed a stream of the same magnitude of Lecompt's run, Miller's run, Cherry run, and other runs that head on the dividing ridge as the said Lane's run did.

Quest. by same. When did Larkin Ferguson settle the place where he afterwards resided on Lecompt's run?

Ans. I believe forty-one, 42, or 43 year ago, I cannot say which; but in one of those years I am certain.

Quest. by compits. Were you acquainted with the people who lived at Bryant's station in the year 1780, 81, 82, &c.?

Ans. Yes, I lived at Bean's station a short time in 1780, and in the fall 1781 I went to Bryant's station to live, and was acquainted there.

Quest. by same. Did you ever hunt on the waters of Elkhorn, and by what name was the run, now called Lecompt's run, called at that time?

Ans. As early as 1782 I hunted on those waters, and what is called Lecompt's run now was then called by the same name.

Quest. by same. Do you or not know how far it was called from Bryant's station to Lecompt's run, travelling down on the north side of Elkhorn?

Ans. I do not know how far it was, but it was much further travelling down on the north side than the distance travelling on the south side, and crossing at the Great Crossings: instead of counting by miles, we counted by runs in travelling down Elkhorn.

Quest. by same. How many forks or runs of the description of Lecompt's run are there between Bryant's station and the mouth of Lecompt's run, that empties into North Elkhorn on the north side thereof?

Ans. There is the Little North fork, Cherry's run, Miller's run, David's fork, Lane's run, McCrackin's run, Dry run, McConnell's run, and then Lecompt's run. And further this deponent saith not.

his
LEWIS + VANLANDINGHAM.
mark.

STATE OF KENTUCKY, OWEN COUNTY, *sct.*

The foregoing deposition of Lewis Vanlandingham was this day taken, subscribed and sworn to, by the said Lewis Vanlandingham, before the undersigned, a justice of the peace in and for said county, at the time and place.

and for the purposes, stated in the caption thereof. Given under my hand, this 11th day of May, 1831.

CYRUS WINGATE.

43.

Burns' depo. By virtue of the annexed dedimus and notice, we caused John Burns to appear before us, two of the justices of the peace in and for the county of Ripley, and State of Indiana, at the tavern of Wm. Skeen, in the town of Versailles, county of Ripley, and State of Indiana, on the 21st day of October, 1831, between the hours of 9 o'clock A. M. and 5 o'clock P. M., who, being duly sworn and cautioned the whole truth to tell, deposeth and saith:

Quest. by Stephen Thompson, agent for defts. Quest. 1st. What year did you become acquainted with the mouth of Lecompt's run?

Answer. Between 30 and 33 years ago I settled near the mouth of Lecompt's run.

Quest. 2d. Did or did you not know any thing about Reuben Garnett's claim?

Answer. Samuel Ayres, of Lexington, offered me a reward if I would find line or corner. I hunted frequently, and could not find line or corner. John Garnett was living, he said, on Reuben Garnett's land. I asked him if he could show me line or corner. He stated that he never could find line or corner, but he supposed the land must be there.

Quest. 3d. Was there or was there not much cedar about the mouth of the run; and, if so, how far up did it extend?

Ans. There was a great deal of cedar, and extended up the river between a half and three quarters of a mile.

Quest. 4th. Was there or was there not much timber about the mouth of Lecompt's run when you first settled there?

Ans. There was, and if there had been a marked line or corner in a quarter of a mile of the mouth of Lecompt's run, I certainly could have found it. I hunted very particular on account of the reward offered by Samuel Ayres.

STATE OF INDIANA, RIPLEY COUNTY, *sct.*

Personally appeared before us, two of the justices of the peace, duly commissioned and acting as such in and for the county and State aforesaid, the above mentioned John Burns, at the time and place mentioned in the caption to the foregoing deposition, and then and there gave and subscribed the same in our presence, swore that the facts therein detailed by him are true. As witness our hands and seals, this 21st day of October, 1831.

JAMES MYERS, *J. P.* [SEAL.]

EDWARD PENDERGAST, *J. P.* [SEAL.]

Poindexter's depo. The deposition of William Poindexter, taken at the tavern of Lewis Calvert, in the Stamping, Scott county, Kentucky, on the 10th day of November, 1831, agreeable to notice hereto annexed, to be read as evidence on the part of the defendants, in a suit in chancery, depending and undetermined in the circuit court of the United States for the district of Kentucky, wherein the heirs of Reuben Garnett are complainants, and Christopher Greenup's heirs and others are defendants. The deponent, being of lawful age, and first duly sworn, deposeth and saith:

1st. Quest. by defts. I want you to state whether or not John Garnett did come to your house, and forewarn you from cutting timber on your land?

Ans. This same man, John Garnett, asked me if I knew whose land I was cutting on? I told him I reckoned it was my own, for I had bought it and paid for it. He then asked me who I had bought it of? I told him I bought it of Thomas Brenham, out of Benjamin Craig's survey—why do you ask me that question? He said it is my land, and I forewarn you from cutting another stick off it: if you do it is at your own risk.

2d. Question by defts. State how far it is from where you were at that time to the mouth of Lecompt's run?

Ans. About three quarters of a mile below the mouth on Elkhorn. And further the deponent saith not.

WILLIAM POINDEXTER.

Neal's depo. Also the deposition of John Neal, taken at the same time and place.

Quest. by deft. I want you to state whether you cut a large cedar tree about twenty yards from the mouth of Lecompt's run; and, if so, whether there were any marks on it?

Ans. I cut a cedar tree about 20 inches through, and I cut up about 25 feet of said tree, which I split up. If there was any marks on said tree, I did not see them: if there had been any on it, I certainly should have seen them. The stump of said tree is the one shown to me that said Joseph S. Norris began at for Garnett's beginning corner. And further the deponent saith not.

his
JOHN + NEAL.
mark.

STATE OF KENTUCKY, SCOTT COUNTY, *sct.*

The foregoing depositions of Wm. Poindexter and Neal was this day subscribed and sworn to by the said William Poindexter and John Neal, before the undersigned a justice of the peace for said county, at the time and place, and for the purpose stated in the caption thereof. Given under my hand, this 10th day of November, 1831.

ANDW. CALVERT, *J. P. S. C.*

Norris' depo. The deposition of Joseph Norris, taken at the mansion house in Frankfort, on the 11th day of November, 1831, to be read as evidence in a suit in chancery depending in the seventh circuit court of the United States in and for the district of Kentucky, wherein the heirs of Reuben Garnett, dec'd, are complts., and Greenup's heirs are defendants. This deponent, being of lawful age, and first duly sworn, deposes and says:

Quest. by complainants. Will you state whether or not the boundary of Reuben Garnett's claim or survey of 1,164⅔ acres, which you run out under an order of the United States' court, seventh circuit, Kentucky district, embraces the places or farms on which John Ferguson now lives, and formerly occupied by his father, James Ferguson, and on which John Calvert lives, the place formerly occupied by Larkin Ferguson; James Chambers, the place Thomas Scruggs formerly lived on; Joseph Abbott, James Brenham, Daniel Brenham, Henry Jenkins, the place formerly occupied by William Sinclair, and the place formerly occupied by Alex. McConnell, and now occupied by said McConnell's heirs?

Ans. As I run the survey Garnett's claim does include a part of James Ferguson's, Calvert's, Scruggs', Yates', Chambers, all of the tract on which McConnell's heirs now live, and a part of James Brenham's, as this deponent has heard James Brenham say. It also includes all of Larkin Ferguson's place, now occupied by Richard Swan.

Quest. by same. Will you state whether or not a survey of the aforesaid 1,164⅔ acres of Garnett aforesaid, beginning 150 or 200 yards higher up Elkhorn than you commenced the survey aforesaid under the order of court, and about the same point on the cliff, and run out according to the courses and distances of said survey, will or not embrace the same places, or a part thereof, which you have named in answer to the foregoing interrogatory?

Ans. I think they would be embraced, or a part of their farms, if not all. I do not think that the residence of any person I have named would be left out of said survey.

Quest. by defts. Have you ever been able to find any of the lines or corners of Garnett's survey?

Ans. I never have seen a corner or line of the same.

Have you made diligent search for the same, both alone and in conjunction with Mr. Cowan, the agent of the complainants?

Ans. I searched at the time I made the survey, and the chain-carriers and Mr. Cowan also searched at that time, and Mr. Cowan and myself also searched a few days ago.

Quest. Did you and Mr. Cowan search a few days since about 150 or 200 yards above the mouth of the run at the place supposed to be designated as the corner by John Garnett, and were you able to find any traces of a corner?

Ans. We searched and were unable to find any, the *cedar had been* cut away; but a number of cedar stumps were standing for 250 yards up and down the creek.

Quest. by complts. Will you state whether or not the whole length of the first line of said survey from the beginning on Elkhorn, either running the course from the mouth of Lecompt's run, or 150 or 200 yards above, does or not pass through cleared land, where the timber is nearly all cut down?

Ans. Yes, the timber is nearly all cut down.

By same. Do you or not recollect, in the search made not long since in company with James Cowan, that you found a tree anciently marked as a line tree with a tomahawk mark, and near the course from a point just above the mouth of Lecompt's run?

Ans. I found a line tree marked with a tomahawk, apparently very ancient, which was near the course of the first line from the beginning, commencing near the mouth of Lecompt's run. The marked tree aforesaid might suit a line of Lecompt's survey which runs near the same place, as I supposed, and the fore and aft marks suits the course of Garnett's line as well as Lecompt's.

By same. Will you state whether or not you found two willow oaks standing on the margin of the Locust fork of Lecompt's run, at a point on said fork where a line run the course of said survey from a beginning 200 yards above the mouth of Lecompt's run, would pass said Locust fork, and would not a distance between 3 and 400 poles from the beginning aforesaid reach said willow oaks?

Ans. A line run from a point on Elkhorn 200 yards above the mouth of Lecompt's run, the course of the first line of the survey would pass near the willow oaks, which I state I found on the Locust fork of Lecompt's run, near

the margin of the creek, at the distance of about 400 poles from Elkhorn, but said willow oaks were not marked as line or corner trees.

Quest. by same. Was or not the land cleared, and trees cut down after passing the creek, except immediately at the margin of the creek?

Ans. Yes.

Quest. by defts If you had been running on the lines, or in the immediate vicinity of them as you run the survey, and they had been marked as surveyors usually are, was there not sufficient growth left for you in all probability to have found line or corner trees?

Ans. Yes, with diligent search I suppose there was, but I never run a survey where there was more difficulty: the timber was very much cut. And further saith not.

JOSEPH S. NORRIS.

FRANKLIN COUNTY, *sct.*

The foregoing deposition was this day taken, subscribed, and sworn to before the undersigned, a justice of the peace for said county, at the time and place, and for the purposes mentioned in the caption thereof; and I further certify that, by the consent of the defendant's counsel, it was agreed to dispense with an order of court to retake this deposition. Given under my hand, this 11th day of November, 1831.

H. WINGATE, *J. P.*

Ayres' depo. The statement of David J. Ayres, taken by consent of parties, to be read as evidence in the suit in chancery now pending in the United States' court, seventh circuit, and Kentucky district, wherein Reuben Garnett's heirs are complainants, and Greenup's heirs and others are defts.

Quest. by complainants. Will you state whether the following persons are or are not the children and heirs of Reuben Garnett, dec'd, the original complainant in the aforesaid suit, to wit, Reuben M. Garnett, James J. Garnett, Mildred Garnett, and Susan Jones, formerly Susan Garnett; and whether or not John Garnett, and Maria T. Ayres, were children of said Reuben Garnett, dec'd, and whether they are dead, with or without children, and who are their children, if any are living?

Ans. The first named persons are the children and heirs of Reuben Garnett, esq., dec'd, and are now living John J. Garnett died before his father, leaving four children, to wit, Mary Garnett, Juliet Garnett, Robert C. Garnett, and Lucy Garnett, all of whom I believe are now living. Maria T. Ayres, formerly Maria T. Garnett, died in 1827, and was the youngest daughter of Reuben Garnett, dec'd; she died without issue. Reuben Garnett left a will at his decease, which is recorded in Essex county, Virginia. In addition to the above named children of R. Garnett, dec'd, there were two other children, viz. Muscoe Garnett, and Thomas J. Garnett, both of whom died without issue many years before the death of their father.

Had Reuben Garnett any grandchildren living at the time of his death? If so, state their names, and whether they or their descendants are now living?

Ans. He had. These are the children of John J. Garnett, dec'd, already mentioned; besides these, the other heirs, except Mildred Garnett, have children, but their parents are now living. Susan Garnett was twice married, and is now a widow; her first husband was Carter Wood, and her second, Capt. John Jones, of Essex county, Virginia.

Quest. by complainants. Will you state whether you have any interest in the tract of land in controversy in this case, and whether you expect to be benefited, whether the complts. gain or lose the land in controversy?

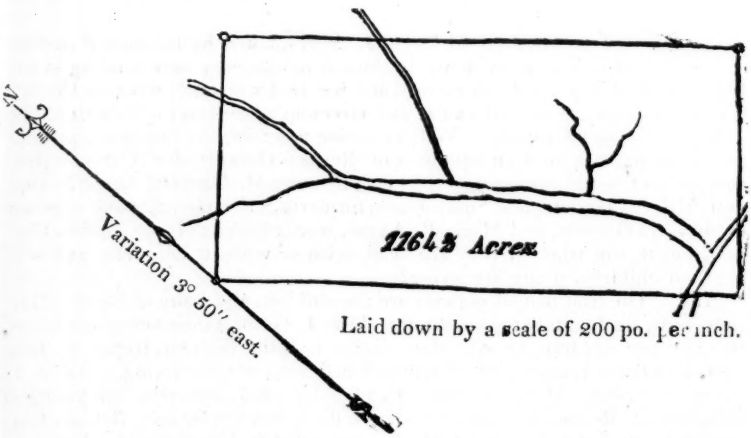
Ans. According to my understanding and recollection of the will, I claim no interest in the suit now pending, and expect no benefit or loss by a loss or gain of the land in controversy. I have already received property under the will of Reuben Garnett, dec'd, from the executor, but that was before the death of my wife, and was specially mentioned in the will. Further this deponent saith not.

D. J. AYRES.

November term, 1831. Sworn to in open court.
Att. JNO. H. HANNA, *C. C. C. K. D.*

We agree that the above affidavit may be entitled to the same force and efficacy in the cause, as if taken by way of deposition upon regular notice.
MILLS & BROWN, *for Defts.*
HAGGIN & COWAN, *Atto's for Complts.*

Survey filed among the papers.



FAYETTE COUNTY, *sct. June* 20, 1785.

Surveyed for Reuben Garnett, 1,164⅔ acres of land by virtue of an entry made on a treasury warrant, No. 467, situate and lying on the Seventh Large Fork of the North Fork of Elkhorn, running in on the north side thereof, about 30 miles below Bryant's station, which is now called Lecompt's run, beginning at a large cedar in a cliff near the mouth of said run, on the upper side thereof, running from thence north 50, east 300 poles, to a willow oak and hackberry; thence north 40, west 622 poles, to a large mulberry and su-

gartree, thence south 50, west 300 poles, to an elm and sugartree; thence south 40, east 622 poles, to the beginning.

SIMON MORGAN, *D. S.*
T. MARSHALL, *S. F. C.*

Ex'd.

JOHN FINCH, SOLLOMON TURNER, } *C. C.*
JOSHUA GARNETT, *Marker.*

A copy, att.

JNO. M. FOSTER, *R. L. O.*
by W. R. FOSTER, *D. R.*

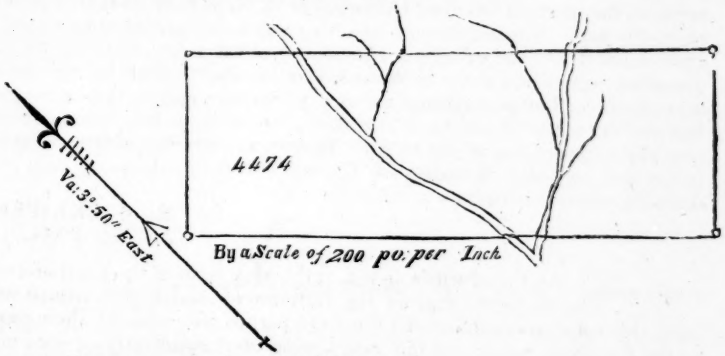
Entry filed among the papers.

May 10, 1780. Peter Samuel, ass'ee of Ruben Garnett, enters 866⅔ acres, by virtue of a treasury warrant, joining Reuben Garnett above, and to run up on both sides of the creek for quantity.

A copy, att.

JNO. M. FOSTER, *R. L. O.*
by E. A. MACURDY, *D. R.*

Survey filed among the papers.



FAYETTE COUNTY, *sct.*, *June* 20, 1785.

Surveyed for Peter Samuel 866⅔ acres of land by virtue of an entry made the 10th day of May, 1780, on a treasury warrant, No. 467, situate and lying on Lecompt's run, a branch of the North Fork of Elkhorn, and running into said North Fork on the north side, about 30 miles below Bryant's station, and bounded as followeth, to wit, beginning at the most eastwardly corner of Reuben Garnett's 1,166⅔ acre survey, a hackberry and willow oak; thence with the line of said survey N. 40°, W. 622 poles, crossing a creek and a drain to a large mulberry and sugartree, corner to said survey; thence N. 50°, E. 223 poles, to a white hickory; thence S. 40°, E. 622 poles, and crossing a creek to a small ash and dogwood: thence S. 50°, W. 223 poles, crossing a small creek, to the beginning.

SIMON MORGAN, *D. S.*
T. MARSHALL, *S. F. C.*

SOLOMON TURNER, JOHN FINCH, } *C. C.*
JOSHUA GARNETT, *Marker.*

A copy, att.

JNO. M. FOSTER, *R. L. O.*
by E. A. MACURDY, *D. R.*

Agreement filed among the papers. Should the court establish Garnett's entry on the proof adduced, then the defts. will be at liberty to amend their answers, file exhibits, relying upon other matters of defence, and, if necessary, take, to prove such additional matter, testimony, and the complts. amend pleading, &c. Also take proof, showing that the complainants' patent covers the , and in avoidance of the new matter. If the bill is dismissed, it is then as to taxation, costs, and every other purpose to be taken that defts. hold, as is stated they do hold in their answers.

R. WICKLIFFE.
JA. COWAN, &c.

REUBEN GARNETT'S HEIRS,
vs.
CHRISTO. GREENUP'S HEIRS, and others. } *In Chancery.*

Agreement filed among the papers. The counsel for the complainants in this cause, and the counsel in the defence, believing that the case, so far as it depends on the validity or invalidity of the entry of the complts., to wit, the entry in the name of Reuben Garnett, dec'd, is as fully prepared as it can be at this day. For the purpose of saving costs, the parties agree to try the cause as relates to the validity or invalidity of the entry, and that the complainants, in case the entry is sustained by the court, shall be permitted to make such further preparations by survey, revivor against the heirs or representatives of dec'd parties, if necessary, &c , as may be necessary to carry into effect the opinion of the court. Therefore, for the present, it is conceded that the patent boundary of Garnett covers the claims of each of the defts. in part.

R. WICKLIFFE.
JA. COWAN.

Final decree. And afterwards, to wit, at the May term of the court aforesaid, in the year 1832, on the 19th day of said month, (until which term this cause was continued,) came the parties aforesaid, by their counsel in the foregoing cause; and the court being now sufficiently advised of and concerning the premises, do decree and order that the complainant's bill be, and the same is hereby dismissed. It is therefore decreed and ordered that the complainants pay to the said defendants their costs by them about the defence of this suit expended.

Appeal granted. And afterwards, to wit, on a subsequent day of the term and year last aforesaid, to wit, the May term, 1832, came the complainants, by their counsel, and on his motion an appeal is granted them to the Supreme Court of the United States, in this cause, upon their entering into an appeal bond to the defendants, in the penalty of five hundred dollars, with James Cowan as their security, conditioned according to law.

Appeal bond. Know all men by these presents, that we, Reuben M. Garnett, son and executor of Reuben Garnett, dec'd, James J. Garnett, Robert Garnett, son of John Garnett, dec'd, Muscoe G. Wood, son of Susan Wood, dec'd, formerly Susan Garnett, Mildred Garnett, Maria J. G. Mathews, daughter of Susan Wood, formerly Susan Garnett, Catharine Micon, daughter of Susan Wood, dec'd, formerly Susan Garnett, Martha Jones, daughter of Susan Jones, dec'd, formerly Susan Garnett, Ellen Jones, daughter of Susan Jones, dec'd, formerly Susan Garnett, Mary Garnett, Lucy Garnett, and Juliet Garnett, daughters of John Garnett, dec'd, Maria Ayres, formerly Maria T. Garnett, and David J. Ayres, husband of said

Maria T. Ayres, devisees and legal representatives of Reuben Garnett, dec'd, and James Cowan, are held and firmly bound unto Henry Jenkins, John Calvert, Joseph Abbott, Stephen Thomasson, John Brown, Larkin Ferguson, James Chambers, James Branham, James Ferguson, William St Clair, Rebecca McConnell, James McConnell, Isabella McConnell, Abram Scruggs, Henry V. Scruggs, Juda Scruggs, Simeon Scruggs, Elizabeth Johnson, John Ferguson, Blades Ferguson, Isaac Gardner, Eunice Macklin, James St. Clair, and Thomas Ferguson, in the sum of five hundred dollars, to which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents; sealed with our seals, and dated this 26th day of May, 1832.

The condition of the above obligation is such, that whereas the above bound heirs of Reuben Garnett, dec'd, have prayed for and obtained an appeal from a decree of the seventh circuit court of the United States of America in and for the district of Kentucky, pronounced at the May term of said court in the year 1832, in a suit lately depending in said court, wherein the said heirs of Reuben Garnett, dec'd, were complainants, and the said Henry Jenkins, &c., were defendants, to the Supreme Court of the United States.

Now, if the said heirs of Reuben Garnett, dec'd, shall well and truly prosecute said appeal with effect, or on failure thereof pay to the said Henry Jenkins, &c., above named, all costs that they may incur in the defence thereof, and which may be legally awarded against the said heirs of the said Reuben Garnett, dec'd.; then the above obligation to be void, otherwise to remain in full force and virtue.

JAMES COWAN. [SEAL.]
By his attorney in fact,
JNO. H. HANNA.

Witness, A. W. G. NICHOLS, *D. C.*

Power atto.

Know all men by these presents, that I, James Cowan, do hereby constitute and appoint John H. Hanna my lawful attorney for me, and in name, to sign and subscribe my name to an appeal bond in the case of Reuben Garnett's heirs against Greenup's heirs, and others, decided by the United States' court, seventh circuit, and Kentucky district, in favor of the defendants, Greenup's heirs, and others. And to which decision the complainants, Garnett's heirs, have prayed an appeal to the Supreme Court of the United States, offering myself as security in said appeal bond, hereby ratifying and confirming the act or acts of my said attorney in relation to the premises, as fully as though executed by myself in proper person. As witness my hand and seal, this 25th day of May, 1832.

JAS. COWAN. [SEAL.]

Witness, JAMES E. DAVIS.

UNITED STATES OF AMERICA, *7th Circuit Court, Kentucky District, sct.*

I, John H. Hanna, clerk of the seventh circuit court of the United States of America, in and for the district of Kentucky, do hereby certify that the foregoing seventy nine pages contain a full, true, and complete transcript of the record and proceedings in the cause therein mentioned of Reuben Garnett's heirs, complainants, against Henry Jenkins, &c , defendants, in chancery.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of said court, this 30th day of October, in the year 1832, and in the 57th year of our independence.

[SEAL.] JNO. H. HANNA.